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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO

--o0o--

ELIEZER WILLIAMS, a minor, by)
Sweetie Williams, his guardian ad)
litem, et al.,)
Plaintiffs,)

vs.) No. 312236

STATE OF CALIFORNIA; DELAINE)
EASTIN, State Superintendent of)
Public Instruction; STATE)
DEPARTMENT OF EDUCATION; State)
Board of Education,)
Defendants.)

DEPOSITION OF
ANTONIO LEWIS

(Pages 1 through 293)

December 5, 2001

REPORTED BY: JOHNNA FORD CSR 11268

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1 --o0o--

2 ACLU OF NORTHERN CALIFORNIA, 1663 Mission

3 Street, Suite 460, San Francisco, California 94103,

4 represented by KATAYOON MAJD, Attorney at Law, appeared

5 as counsel on behalf of the Plaintiffs.

6 O'MELVENY & MYERS LLP, 400 South Hope

7 Street, Los Angeles, California 90071-2899,

8 represented by MICHAEL ROSENTHAL, Attorney at Law,

9 appeared as counsel on behalf of the Defendant, State

10 of California.

11 ALSO PRESENT: Kay Lucas, Attorney at Law.

12 --o0o--

13 EXAMINATION BY MR. ROSENTHAL

14 MR. ROSENTHAL: Q. Good morning, Mr. Lewis.

15 My name is Michael Rosenthal and I represent the State

16 of California in the Williams litigation.

17 Can you please state and spell your name for

18 the record?

19 A. Antonio, A-n-t-o-n-i-o, Lewis, L-e-w-i-s.

20 Q. Great. Thank you. Have you ever had your

21 deposition taken before?

22 A. Yes, I did.

23 Q. Can you tell me when that was?

24 A. That was -- I would say approximately

25 August. 1st of August is when I signed it, so --

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SAN FRANCISCO

3 --o0o--

4 ELIEZER WILLIAMS, a minor, by)
 Sweetie Williams, his guardian ad)
 5 litem, et al.,)
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 6 Plaintiffs,)
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 7 vs.) No. 312236
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 8 STATE OF CALIFORNIA; DELAINE)
 EASTIN, State Superintendent of)
 9 Public Instruction; STATE)
 DEPARTMENT OF EDUCATION; State)
 10 Board of Education,)
)
 11 Defendants.)
)

12 --o0o--

13

14

15 BE IT REMEMBERED that, pursuant to notice

16 and on Wednesday, December 5, 2001, commencing at 10:34

17 a.m. at O'Melveny & Myers LLP, 275 Battery Street,

18 Conference Room 26 West, San Francisco, California,

19 before me, JOHNNA FORD, a Certified Shorthand Reporter,

20 personally appeared

21 ANTONIO LEWIS

22

23 called as a witness by the Defendant State of

24 California, who, having been first duly sworn, was

25 examined and testified as follows:

1 MS. MAJD: I'm sorry. I think he is

2 referring to his declaration.

3 MR. ROSENTHAL: Q. Mr. Lewis, do you have

4 an understanding that what we're conducting here today

5 is something called a deposition?

6 A. Correct.

7 Q. Have you ever had something like this occur

8 before in any other lawsuit?

9 A. No.

10 Q. Okay. Just so you are familiar with the

11 process, I'm going to go over a couple of the rules

12 we'll be following today in today's deposition.

13 Basically what I'm going to do is ask you some

14 questions and ask you to provide me with answers to

15 those questions.

16 Sitting next to us we have, Johnna, a court

17 reporter, who is transcribing everything that we say

18 here today. At the end of the deposition, you'll have

19 an opportunity to review the transcript that is

20 prepared and make any changes to that transcript that

21 you believe are necessary. Do you understand that?

22 A. Yes.

23 Q. And do you understand that if you make any

24 changes to the transcript, that any attorney in this

25 matter will have the opportunity to comment on those

1 changes?

2 A. Yes.

3 Q. So do you understand it is important to
4 listen to my questions carefully and answer them to the
5 best of your ability?

6 A. Yes.

7 Q. Do you understand that the testimony you are
8 giving here today is under oath?

9 A. Yes, I do.

10 Q. And even though we're sitting here in kind
11 of an informal setting, do you understand that it is
12 just as if you were testifying in a court of law?

13 A. Yes, I do.

14 Q. Great. Because we're trying to get all the
15 questions and answers down on paper, it is helpful if
16 you can answer my questions verbally, so rather than
17 shaking your head or nodding your head, which are
18 difficult things to write down, if I ask you a question
19 where you can say "yes" or "no," if you can give your
20 response verbally, that is helpful. Do you understand
21 that?

22 A. Yes, I do.

23 Q. Great. And, again, so the written record is
24 clear, it is helpful if only one person speaks at a
25 time. To the extent you can, if you can let me finish

1 my question before giving your answer, I'll try to
2 return the courtesy and allow you to finish your answer
3 before I move on to my next question. Can we have that
4 understanding?

5 A. Yes.

6 Q. Great. Also for any reason I ask you a
7 question you don't understand, let me know and perhaps
8 I'll be able to rephrase the question, but if I ask a
9 question and you provide an answer to me, I'm going to
10 assume you understood the question. Is that fair?

11 A. Yes.

12 Q. Also, you are required to answer my
13 questions to the best of your ability. I don't want
14 you to guess. If I ask you a question that you don't
15 have any basis for an answer, but in some instances,
16 you may be able to give me your best estimate and I
17 would like you to give me that, but I don't want you to
18 guess in response to any of my questions. Do you
19 understand that?

20 A. Yes.

21 Q. Also, we'll take breaks whenever necessary.
22 We usually run for approximately an hour at a time, but
23 if for any reason you need a break, if you need to use
24 the restroom, need something else to drink, just let me
25 know and we can take a break at that point. Do you

1 understand that?

2 A. Yes, I do.

3 Q. Great. Also, we'll be covering a lot of
4 different areas today and it is sometimes difficult to
5 remember everything at once, so if at some point later
6 in the day you remember something that was responsive
7 to a question I asked you earlier in the day, just let
8 me know and we can go back to that area and get that
9 information. Do you understand that?

10 A. Yes.

11 Q. Do you have any questions about any of these
12 ground rules?

13 A. No.

14 Q. Do you understand them?

15 A. Yes.

16 Q. Is there any reason why you might not be
17 able to give your best testimony here today?

18 A. Perhaps if it --

19 Q. I'm sorry?

20 A. Perhaps if it was something that is very
21 detailed from three years ago, I may not know off the
22 top of my head. I may have to think about it.

23 Q. Are you on any medication?

24 A. No.

25 Q. Do you have any disabilities that would make

1 it difficult for you to remember things?

2 A. No.

3 Q. Mr. Lewis, are you represented by counsel at
4 today's deposition?

5 A. Yes, I am.

6 Q. Can you tell me who you are represented by?

7 A. Katayoon Majd.

8 Q. Are you represented by anybody else?

9 MS. MAJD: Objection. Calls for a legal
10 conclusion.

11 THE WITNESS: Not that I'm aware of.

12 MR. ROSENTHAL: Q. Do you have an
13 understanding as to when that representation began?

14 A. Yes, I do.

15 Q. Can you tell me when the representation
16 began?

17 A. Approximately, say, October 2001, this year.

18 Q. Do you have an understanding as to why the
19 representation began at that time?

20 A. Yes, I do.

21 Q. Can you tell me what that understanding is?

22 MS. MAJD: I'm going to object to the extent
23 this calls for information that is privileged under
24 attorney/client privilege, so I don't want you to talk
25 about anything that we discussed in our conversations

1 together. He has already testified that is when the
 2 relationship began.
 3 MR. ROSENTHAL: Q. Do you want me to repeat
 4 my question?
 5 A. Sure.
 6 Q. Do you have an understanding as to why the
 7 representation began at that time?
 8 MS. MAJD: I'm going make the same
 9 objection. I don't -- it calls for information that is
 10 protected by attorney/client privilege and I'm going to
 11 instruct you not to answer.
 12 MR. ROSENTHAL: Q. Are you going to follow
 13 that instruction?
 14 A. Yes, I am.
 15 Q. Prior to Ms. Majd representing you starting
 16 in roughly October 2001, were you represented by
 17 anybody else in connection with this case?
 18 A. No, I was not.
 19 Q. Can you tell me what you did to prepare for
 20 today's deposition?
 21 MS. MAJD: Also, Antonio, I just want to
 22 remind you, you can say we met, but don't talk about
 23 what we discussed.
 24 THE WITNESS: I met with Katayoon this past
 25 Monday.

1 MR. ROSENTHAL: Q. Do you recall how long
 2 you met for?
 3 A. Approximately three and a half hours, four
 4 hours.
 5 Q. Was anybody else at the meeting?
 6 A. No.
 7 Q. Was it an in-person meeting? Was it in
 8 person or was it over the phone or something?
 9 A. In person.
 10 Q. Were you shown any documents at that
 11 meeting?
 12 MS. MAJD: Objection. Don't answer that.
 13 That calls for information that is privileged under
 14 attorney/client privilege. I'm going to instruct you
 15 not to answer.
 16 MR. ROSENTHAL: Q. Are you going to follow
 17 that instruction?
 18 A. Yes.
 19 Q. Were you shown any documents at that meeting
 20 that refreshed your recollection?
 21 MS. MAJD: Michael, why don't you ask him if
 22 he saw any documents or reviewed any documents that
 23 refreshed his recollection. I don't know why you have
 24 to limit to documents that I might or might not have
 25 given him.

1 MR. ROSENTHAL: Are you instructing him not
 2 to answer?
 3 MS. MAJD: You can answer.
 4 THE WITNESS: Yes.
 5 MR. ROSENTHAL: Q. Do you recall what those
 6 documents were?
 7 A. My declaration.
 8 Q. Anything else?
 9 A. No.
 10 Q. Other than meeting with your attorney on
 11 Monday, did you have any other conversations with your
 12 attorneys in connection with preparing for today's
 13 deposition?
 14 A. Yes.
 15 Q. Was it more than one additional meeting --
 16 was it more than one additional -- was it one
 17 additional communication or was it more than that?
 18 A. I would approximately say three phone calls.
 19 Q. Do you recall when the first phone call took
 20 place?
 21 A. Regarding -- can you rephrase the question?
 22 Q. Yes. This is in connection for preparing
 23 for today's deposition.
 24 A. Approximately I would say middle to late
 25 November.

1 Q. Can you tell me what the purpose of the
 2 phone calls were?
 3 MS. MAJD: Objection. Calls for information
 4 that is privileged under attorney/client privilege.
 5 I'm going to instruct you not to answer that. Also
 6 calls for speculation.
 7 MR. ROSENTHAL: Q. Who did you speak to in
 8 connection with those phone calls?
 9 MS. MAJD: You can answer that.
 10 THE WITNESS: Katayoon Majd.
 11 MR. ROSENTHAL: Q. Was anybody else on the
 12 phone call?
 13 A. No.
 14 Q. Do you recall how long the phone calls
 15 lasted?
 16 A. Approximately, say, ten to 20 minutes.
 17 Q. Is that total or per phone call?
 18 A. Per phone call.
 19 Q. Other than your meeting on Monday and these
 20 phone calls, did you have any other communications with
 21 your attorneys concerning today's deposition --
 22 concerning preparing for today's deposition?
 23 A. No.
 24 Q. You already mentioned that you reviewed your
 25 declaration in connection with preparing for today.

1 Did you review any other documents at any time to
2 prepare for your deposition outside of your meetings
3 with counsel?

4 A. No.

5 Q. Other than communications with your
6 attorneys, have you spoken to anybody else about
7 today's deposition?

8 A. No.

9 Q. Can you tell me how you first heard about
10 the Williams litigation?

11 A. From my representation, Katayoon Majd.

12 Q. Do you recall when the first instance was
13 that you heard about this case?

14 A. First instance, I would approximately say
15 July.

16 Q. Is that July 2001?

17 A. July 2001, sorry.

18 Q. And can you tell me the circumstances of
19 your becoming aware of this case?

20 MS. MAJD: Objection. Vague.

21 MR. ROSENTHAL: Q. Do you understand the
22 question?

23 A. No.

24 Q. Can you tell me how you first heard about
25 this case in roughly July of 2001?

1 THE WITNESS: Can you rephrase the question
2 and make it clear, please?

3 MR. ROSENTHAL: Q. Were you expecting a
4 call from somebody from the ACLU?

5 A. No, I was not.

6 Q. Do you know how Ms. Majd got your name and
7 number?

8 MS. MAJD: Objection. Calls for
9 speculation. You can answer, if you know.

10 THE WITNESS: No, I do not.

11 MR. ROSENTHAL: Q. Has anybody ever told
12 you how Ms. Majd got your name and number?

13 A. No.

14 Q. After this conversation in roughly July
15 2001, did you have subsequent communications with any
16 of the attorneys representing the plaintiffs in this
17 case?

18 MS. MAJD: You can answer that.

19 THE WITNESS: Yes.

20 MR. ROSENTHAL: Q. Can you tell me when the
21 next communication you had with one of the attorneys
22 was after the phone call with Ms. Majd in roughly July
23 of 2001?

24 A. It was also in July 2001, roughly, that on a
25 day of work, I was contacted again by Ms. Katayoon

1 A. I was contacted at my place of work and I
2 was told that someone from the ACLU wanted to speak to
3 me.

4 Q. Can you tell me who contacted you at work?

5 A. Katayoon Majd.

6 Q. Do you recall -- can you tell me the
7 substance of the conversation you had with Ms. Majd at
8 that time?

9 MS. MAJD: Objection. Vague, but you can
10 answer, if you understand the question.

11 THE WITNESS: I do not understand the
12 question.

13 MR. ROSENTHAL: Q. You said that roughly
14 July of 2001, you were contacted by Ms. Majd. Can you
15 tell me what she said at that time?

16 A. She introduced herself and told me she
17 worked for the ACLU and she wanted to talk to me about
18 something that was pertaining to my high school and a
19 particular case.

20 Q. Do you recall how you responded at that
21 time?

22 A. I do not recall.

23 Q. Were you surprised to hear from Ms. Majd at
24 the time?

25 MS. MAJD: Objection. Vague.

1 Majd.

2 Q. Was that a telephone conversation?

3 A. Yes.

4 Q. Can you tell me what was said during that
5 conversation?

6 A. It was basically she wanted to know if I
7 would be interested in -- I don't want to say
8 participating, but would I mind being involved or
9 giving information on this particular case pertaining
10 to my high school.

11 Q. And do you recall how you responded?

12 A. Yes, I do.

13 Q. Can you tell me how you responded?

14 A. I replied yes, I would be willing to give
15 information.

16 Q. At this point in time, had anybody explained
17 to you what this case was about?

18 A. Excuse me. Can you rephrase the question,
19 please?

20 Q. Sure. We're talking about your second
21 conversation you've had with Ms. Majd in July of 2001
22 where she asked you if you would be interested in
23 becoming involved in the case and providing information
24 about your high school. At this point, had anybody
25 explained to you what this lawsuit is about?

1 MS. MAJD: Objection. Vague. You can
2 answer, if you understand.
3 THE WITNESS: Not in full detail, all the
4 specifics, no.
5 MR. ROSENTHAL: Q. Can you tell me the
6 level of detail that had been conveyed to you?
7 MS. MAJD: Objection. Vague, but you can
8 answer, if you understand.
9 THE WITNESS: Can you rephrase it, please?
10 I'm sorry.
11 MR. ROSENTHAL: Q. Sure. You said you
12 weren't aware of every detail about the case. Can you
13 tell me what your understanding was about the case at
14 that time?
15 A. That it dealt with the ACLU and the state of
16 California and my school was mentioned in the case and
17 so they wanted me -- if I was willing to provide
18 information.
19 Q. Did you have an understanding as to the
20 relief being sought by Plaintiffs in this case?
21 MS. MAJD: Objection. Vague and calls for
22 speculation and calls for a legal conclusion.
23 THE WITNESS: I don't understand the
24 question.
25 MR. ROSENTHAL: Q. Did you have an

1 understanding as to what outcome the Plaintiffs were
2 seeking in this case?
3 MS. MAJD: Calls for speculation.
4 THE WITNESS: No, I do not.
5 MR. ROSENTHAL: Q. Getting back to your
6 second conversation in July of 2001 with Ms. Majd, do
7 you recall anything else being said during that
8 communication?
9 A. No, I do not.
10 Q. After that phone call, did you have any
11 communications with Ms. Majd or any of the other
12 attorneys representing the Plaintiffs in this case?
13 A. Can you be more specific, please?
14 Q. Sure. We've covered two conversations in
15 July of 2001 and I'm just moving forward in time and if
16 you can tell me whether there were any other
17 communications you had with Ms. Majd or other attorneys
18 in connection with this case.
19 MS. MAJD: You can answer.
20 THE WITNESS: I met Ms. Majd in person and
21 we discussed in full detail what the case and
22 everything was about.
23 MR. ROSENTHAL: Q. Do you recall when that
24 meeting was?
25 A. I would say roughly late July of 2001.

1 Q. Was that the first time you met Ms. Majd in
2 person?
3 A. Yes.
4 Q. Was there anybody else there at that
5 meeting?
6 A. No.
7 Q. You said at this meeting you discussed in
8 greater detail what the case was about. Can you tell
9 me what you discussed at that time?
10 MS. MAJD: Objection. Overbroad. Calls for
11 a narrative. You can answer, if you understand the
12 question.
13 THE WITNESS: I don't understand the
14 question.
15 MR. ROSENTHAL: Q. Can you tell me what was
16 discussed at this in-person meeting with Ms. Majd?
17 MS. MAJD: Same objection, but you can
18 answer, if you know.
19 THE WITNESS: I don't know.
20 MR. ROSENTHAL: Q. You don't remember what
21 you talked about at that meeting?
22 A. Excuse me. Can you --
23 Q. I'm just trying to find out what was
24 discussed in the in-person meeting in late July of 2001
25 that you had with Ms. Majd, if you can tell me what you

1 discussed with her.
2 MS. MAJD: You can answer, if you
3 understand.
4 THE WITNESS: From my understanding, at the
5 meeting late July 2001 I had in person with Ms. Majd,
6 she introduced herself to me and I introduced myself to
7 her and we met and we sat down and she told me what the
8 case was about and how my school, once again, was
9 mentioned in the case and that since I currently attend
10 school, that they would be seeking information from me
11 if I was willing, once again, and since I obliged, we
12 sat and we met and she told me to discuss -- discuss my
13 school situation.
14 MR. ROSENTHAL: Q. Do you recall how long
15 you met for at that time?
16 A. Roughly an hour and a half.
17 Q. At this meeting, did you discuss the
18 possibility of you submitting a written declaration?
19 A. Yes.
20 Q. Can you tell me what Ms. Majd told you this
21 case was about at that meeting with her?
22 MS. MAJD: You can answer.
23 THE WITNESS: She told me specifically that
24 this case was about the ACLU filing a lawsuit against
25 the state of California due to the inequities among the

1 public schools in the state of California and that my
2 school, once again, was mentioned as one of the schools
3 involved.

4 MR. ROSENTHAL: Q. At that time, did Ms.
5 Majd tell you what outcome the Plaintiffs were
6 attempting to seek?

7 MS. MAJD: Objection. Calls for a legal
8 conclusion.

9 THE WITNESS: No.

10 MR. ROSENTHAL: Q. Has anybody told you at
11 any time what outcome the Plaintiffs are seeking in
12 this case?

13 MS. MAJD: Same objection. You can answer,
14 if you know.

15 THE WITNESS: No.

16 MR. ROSENTHAL: Q. Now, you say at this
17 meeting, you discussed your school situation with Ms.
18 Majd. Can you tell me what you told her at the
19 meeting?

20 MS. MAJD: Objection. It is vague and
21 overbroad and calls for a narrative, but you can
22 answer.

23 THE WITNESS: Can you be more specific,
24 please?

25 MR. ROSENTHAL: Q. You said that one of the

1 Q. Do you know if Ms. Majd took notes at the
2 meeting?

3 MS. MAJD: You can answer, if you know.

4 THE WITNESS: Yes.

5 MR. ROSENTHAL: Q. Did she take notes at
6 the meeting?

7 A. She took notes. She asked me questions. I
8 answered them and she wrote them down on a notepad.

9 Q. Did you take any notes at the meeting?

10 A. No.

11 Q. Were you provided any documents at this
12 meeting?

13 A. No.

14 MS. MAJD: Objection. Vague, but go ahead.

15 THE WITNESS: No.

16 MR. ROSENTHAL: Q. When you described the
17 current conditions of your school at this meeting, do
18 you recall being asked any additional questions about
19 those conditions?

20 MS. MAJD: Objection. Vague, also slightly
21 misstates his testimony. He didn't say he talked about
22 current conditions. He said he talked about his school
23 situation.

24 THE WITNESS: I don't understand the
25 question. Sorry.

1 things you discussed was your school situation with Ms.
2 Majd. Can you tell me what you meant by that?

3 A. The current conditions at my high school.

4 Q. And were there specific conditions that you
5 discussed at that meeting?

6 MS. MAJD: You can answer.

7 THE WITNESS: Yes.

8 MR. ROSENTHAL: Q. Can you tell me what
9 those were?

10 A. We discussed the facilities at my high
11 school, the amount and the lack of materials, for
12 example textbooks, teacher qualifications or
13 credentials, sorry, overcrowding of classrooms, lack of
14 chairs and desks. That is all I can remember.

15 Q. When you say, "Facilities," can you tell me
16 what you are referring to?

17 A. The bathrooms.

18 Q. Anything else?

19 A. Classrooms.

20 Q. Anything else you include when you are
21 referring to facilities?

22 A. No.

23 Q. Do you know whether this conversation you
24 had with Ms. Majd was tape-recorded in any way?

25 A. I cannot recall.

1 MR. ROSENTHAL: Q. You told me earlier that
2 you described what you said, and we disagree as to what
3 was said, the current conditions at your school. Do
4 you recall being asked any follow-up questions about
5 the conditions you described?

6 A. No. From my understanding, I was explaining
7 the current conditions at that particular time.

8 Q. Now, you said at this meeting that you
9 discussed in greater detail what the case was about and
10 you described the current conditions at the school.
11 Was there anything else that was discussed at this
12 meeting with Ms. Majd that you haven't already told me
13 about?

14 A. No, not that I can remember.

15 Q. After this meeting in roughly late July of
16 2001, do you recall when you had -- well, strike that.

17 After this meeting in July of 2001, did you
18 have a subsequent communication with Ms. Majd or one of
19 the other attorneys representing the Plaintiffs?

20 MS. MAJD: Can we just -- let me just -- can
21 we limit it to before October when the representation
22 began?

23 MR. ROSENTHAL: That is fine.

24 MS. MAJD: Okay.

25 THE WITNESS: That I can remember, August

1 1st, the day I signed my declaration -- 2001, sorry.
 2 MR. ROSENTHAL: Q. Thank you. Did you have
 3 an in-person meeting at that time?
 4 A. I cannot recall.
 5 Q. Let me ask one question that will make my
 6 questions a little easier to ask: Prior to October of
 7 2001, did you meet with any attorney other than Ms.
 8 Majd?
 9 A. No.
 10 MS. MAJD: About this case, obviously?
 11 MR. ROSENTHAL: About this case. I'm sorry.
 12 Thank you.
 13 THE WITNESS: No.
 14 MR. ROSENTHAL: Q. Do you recall how you
 15 received a copy of your declaration?
 16 MS. MAJD: Objection. Vague. You can
 17 answer, if you understand.
 18 THE WITNESS: That I remember, it was at our
 19 in-person meeting, roughly late July 2001.
 20 MR. ROSENTHAL: Q. Was that the same
 21 meeting we were talking about earlier?
 22 A. Yes.
 23 Q. You said that at that meeting, you discussed
 24 the conditions at your school and Ms. Majd took some
 25 notes about what you were saying. Were you given a

1 copy of your declaration after you provided that
 2 information at that same meeting?
 3 MS. MAJD: You can answer, if you remember.
 4 THE WITNESS: From what I remember, after
 5 the meeting was ended, she showed me a copy of all the
 6 things that I said and to read over and make sure what
 7 she took down was correct.
 8 MR. ROSENTHAL: Q. And did she show you
 9 that in some sort of document form?
 10 MS. MAJD: Objection. Vague.
 11 THE WITNESS: It wasn't a document form, but
 12 it was one of those yellow type of papers.
 13 MR. ROSENTHAL: Q. She showed you her
 14 notes?
 15 A. Yeah.
 16 Q. Did you at this point see a copy of a more
 17 formal declaration in a typewritten form?
 18 MS. MAJD: Vague. Do you understand -- if
 19 you understand, you can answer.
 20 THE WITNESS: I don't understand. Can you
 21 rephrase it, please?
 22 MR. ROSENTHAL: Q. Sure. You said at the
 23 meeting, Ms. Majd showed you her notes to ensure that
 24 she had taken down the information correctly. At some
 25 point after that, did you see a copy of your

1 declaration in a non-handwritten form?
 2 A. Yes, I did, but I cannot recall the specific
 3 date as to when.
 4 Q. One quick question about the meeting in late
 5 July with Ms. Majd. When you reviewed her notes, did
 6 you make any corrections or suggestions at that time?
 7 A. Not that I can remember.
 8 Q. Do you remember receiving a copy of your
 9 declaration in the mail?
 10 A. Yes, but I cannot remember the specific
 11 date.
 12 Q. Do you remember approximately how long after
 13 your meeting with Ms. Majd you received a copy?
 14 A. Approximately, I would say a week.
 15 Q. Can you tell me what you did with the
 16 declaration when you received it?
 17 MS. MAJD: Objection. Vague, but you can
 18 answer, if you understand the question.
 19 THE WITNESS: I don't understand. Can you
 20 rephrase, please?
 21 MR. ROSENTHAL: Q. Did you read your
 22 declaration when you received it?
 23 A. Yes, I did.
 24 Q. Did you notice anything in the declaration
 25 that appeared to be not correct?

1 A. Not that I can remember.
 2 Q. Did you suggest any changes be made to the
 3 declaration at that time?
 4 A. Not that I can remember.
 5 Q. Did you sign the declaration on the day you
 6 received it?
 7 A. No, I did not.
 8 Q. Do you recall how long after receiving --
 9 how long after you received the declaration that you
 10 signed it?
 11 A. I do not. I can't recall. Sorry.
 12 Q. Can you estimate or do you just not remember
 13 at all?
 14 A. Approximately, say, two to three days,
 15 perhaps.
 16 Q. At some point in time, did you return your
 17 signed declaration to Ms. Majd?
 18 A. Yes.
 19 Q. Do you recall how you did that?
 20 MS. MAJD: Objection. Vague.
 21 THE WITNESS: I do not recall.
 22 MR. ROSENTHAL: Q. Do you remember giving
 23 it to her in person or dropping it in the mail?
 24 A. I cannot remember.
 25 Q. After providing Ms. Majd with your signed

1 declaration, did you have any subsequent communications
2 with her? And that is prior to October of 2001.

3 A. No.

4 Q. Do you recall when you found out that your
5 deposition may be taken in connection with this case?

6 MS. MAJD: Objection. That calls for
7 information that is protected by attorney/client
8 privilege. I'm going to instruct you not to answer.

9 MR. ROSENTHAL: Q. Are you going to follow
10 that instruction?

11 A. Yes.

12 Q. Have you ever seen a copy of the first
13 amended complaint in this case?

14 MS. MAJD: Objection. Calls for a legal
15 conclusion. If you know what that is, you can answer.

16 THE WITNESS: I don't know what that means.

17 MR. ROSENTHAL: I'll have to come back to
18 it. I didn't bring it with me.

19 Q. Do you have an understanding as to whether
20 you are a plaintiff in this action?

21 MS. MAJD: Objection. Calls for a legal
22 conclusion and I just want to remind counsel the
23 witness is 17 years old.

24 THE WITNESS: From my understanding, I don't
25 know.

1 under the attorney/client privilege, so if anyone
2 besides your attorneys has asked you, you can say yes
3 -- I mean, you can answer, but don't talk about what we
4 discussed.

5 THE WITNESS: Okay.

6 MR. ROSENTHAL: Q. It is a "yes" or "no"
7 question. Has anybody asked you to collect any
8 documents in connection with this case?

9 A. No.

10 MS. MAJD: Same objection. He was limiting
11 it to non-attorney.

12 MR. ROSENTHAL: I'm including your attorneys
13 at this point.

14 THE WITNESS: You are including my
15 attorneys?

16 MR. ROSENTHAL: Right.

17 Q. Has anybody asked you to collect any
18 documents in connection with this case?

19 MS. MAJD: I'm instructing you not to answer
20 whether or not any attorneys in this case asked you to
21 collect documents.

22 MR. ROSENTHAL: I believe I'm entitled to
23 find out if he has collected any documents in
24 connection with our subpoena.

25 MS. MAJD: You can ask that question.

1 MR. ROSENTHAL: Q. Do you know what a
2 plaintiff is?

3 MS. MAJD: Objection. Calls for a legal
4 conclusion.

5 THE WITNESS: No.

6 MR. ROSENTHAL: Q. Do you have an
7 understanding as to whether you are a member of the
8 class represented by Ms. Majd?

9 MS. MAJD: Same objection, but you can
10 answer, if you know.

11 THE WITNESS: I don't know.

12 MR. ROSENTHAL: Q. We've been going over
13 the communications you've had with Ms. Majd. Have you
14 had any communications with anybody else about this
15 case?

16 A. No.

17 Q. You haven't spoken to any of your fellow
18 students about the case?

19 MS. MAJD: Objection. Asked and answered.

20 THE WITNESS: No.

21 MR. ROSENTHAL: Q. Has anybody ever asked
22 you to collect any documents in connection with this
23 case?

24 MS. MAJD: Objection. I'm going to object
25 to the extent this calls for information that falls

1 MR. ROSENTHAL: Q. Have you collected any
2 documents in connection with the subpoena that was
3 served on you?

4 MS. MAJD: Calls for a legal conclusion.

5 THE WITNESS: I don't understand the
6 question. Sorry.

7 MR. ROSENTHAL: Q. Have you collected any
8 documents in connection with this case at all?

9 MS. MAJD: You can answer that.

10 THE WITNESS: Yes.

11 MR. ROSENTHAL: Q. Can you tell me what
12 documents you collected?

13 MS. MAJD: You can tell him that.

14 THE WITNESS: My transcripts and an award
15 that I got.

16 MR. ROSENTHAL: Q. And did you bring copies
17 of those with you today?

18 A. Yes.

19 MR. ROSENTHAL: Does counsel have those?

20 MS. MAJD: Yes.

21 MR. ROSENTHAL: I would like the record to
22 reflect that Ms. Majd has just provided me with a
23 two-page document that is entitled, "San Francisco
24 Unified School District Scholarship Record." It has a
25 printed date on it of August 24th, 2001 and it appears

1 to be a transcript for Mr. Lewis and Ms. Majd has also
2 provided me with an additional one-page document which
3 appears to be a copy of an award that is entitled,
4 "Student of the Year Motivational Award," which appears
5 to have been awarded to Mr. Lewis.

6 Q. Other than -- Mr. Lewis, other than these
7 three pages, did you collect any other documents?

8 MS. MAJD: You can answer that.

9 THE WITNESS: No.

10 MR. ROSENTHAL: Q. Mr. Lewis, do you
11 maintain any file of documents relating to this case?

12 MS. MAJD: Objection. Vague.

13 THE WITNESS: I don't understand your
14 question.

15 MR. ROSENTHAL: Q. Do you have in your
16 possession any documents relating to this case?

17 MS. MAJD: Same objection.

18 MR. ROSENTHAL: Q. Do you understand the
19 question?

20 MS. MAJD: You can answer, if you
21 understand.

22 THE WITNESS: No, I don't. Sorry.

23 MR. ROSENTHAL: Q. What part of the
24 question is confusing you?

25 A. I don't understand if you are talking about

1 Q. Anywhere.

2 A. Yes.

3 Q. Any other papers relating to this case that
4 you keep anywhere?

5 MS. MAJD: Same objection, but you can
6 answer, if you understand.

7 THE WITNESS: Yes.

8 MR. ROSENTHAL: Q. Can you tell me what
9 other papers you keep?

10 MS. MAJD: In connection with this case?

11 MR. ROSENTHAL: In this regard.

12 MS. MAJD: You can answer, if you
13 understand.

14 THE WITNESS: To my knowledge, the complaint
15 -- a portion of the complaint, sorry, I should say.

16 That is all that I have that I know of at the moment.

17 MR. ROSENTHAL: Q. And do you keep those in
18 a specific place?

19 MS. MAJD: Objection. Vague.

20 THE WITNESS: At my house.

21 MR. ROSENTHAL: Q. Are they kept together
22 in a folder or a file of some sort?

23 A. Yes.

24 Q. Do you know whether those are the only two
25 documents contained in that file or might there be

1 documents in files.

2 Q. Okay. Do you have any papers relating to
3 this case?

4 MS. MAJD: Objection. Vague. If you
5 understand, you can answer. If you don't, say so.

6 THE WITNESS: I don't understand.

7 MR. ROSENTHAL: Q. I'm just trying to
8 figure out if you have -- if you keep copies of any
9 papers that relate to this case.

10 MS. MAJD: He said that he doesn't
11 understand your question.

12 THE WITNESS: I don't know what you mean by
13 papers.

14 MR. ROSENTHAL: Q. Papers that contain
15 information on them.

16 MS. MAJD: Vague.

17 THE WITNESS: To my knowledge, no.

18 MR. ROSENTHAL: Q. Maybe if I give an
19 example, that will help. Do you keep a copy of your
20 declaration?

21 A. Excuse me, can you repeat that, please?
22 Sorry.

23 Q. Sure. Do you keep a copy of your
24 declaration?

25 A. At home or --

1 others?

2 MS. MAJD: Objection. Calls for
3 speculation. You can answer, if you know.

4 THE WITNESS: I don't know.

5 MR. ROSENTHAL: Q. In the event that you
6 have other documents relating to this case, I'm just
7 going to ask you not to throw them out or destroy them
8 in any way because they may be subject to discovery.
9 Do you understand that?

10 MS. MAJD: Objection. Calls for a legal
11 conclusion.

12 THE WITNESS: I don't understand what
13 "discovery" means.

14 MR. ROSENTHAL: Q. Fine. Do you understand
15 my request not to throw them out or destroy any papers
16 you have relating to this case?

17 A. Yes.

18 Q. And you agree to that?

19 A. Yes.

20 Q. Okay. Okay. I'm going to shift gears a
21 little bit and get some background from you about your
22 education and any work experience you may have. Are
23 you currently attending school?

24 A. Yes.

25 Q. Can you tell me where you are currently

1 attending?
 2 A. Balboa High School.
 3 Q. And can you tell me what year you are?
 4 A. I'm a senior, 12th grade.
 5 Q. Have you attended Balboa -- how long have
 6 you attended Balboa?
 7 A. My entire high school career.
 8 Q. Is this your fourth year there?
 9 A. Yes.
 10 Q. Can you tell me where you went to middle
 11 school?
 12 A. James Denman, D-e-n-m-a-n, Middle School.
 13 Q. And is that middle school in the San
 14 Francisco Unified School District?
 15 A. Yes, it is.
 16 Q. Can you tell me where you went to elementary
 17 school?
 18 A. Cleveland Elementary, sorry.
 19 Q. Is that also in the San Francisco Unified
 20 School District?
 21 A. Yes.
 22 Q. Have you ever gone to any other schools that
 23 we haven't mentioned?
 24 MS. MAJD: Objection. Vague. You mean
 25 attended as a --

1 MR. ROSENTHAL: As a student.
 2 THE WITNESS: Preschool.
 3 MR. ROSENTHAL: I'm sorry?
 4 THE WITNESS: Preschool.
 5 MR. ROSENTHAL: Q. Do you recall where you
 6 went to preschool?
 7 A. John Muir, M-u-i-r.
 8 Q. Do you know if that was private or public?
 9 A. I don't know. Sorry.
 10 Q. A long time ago?
 11 A. Yeah.
 12 Q. Other than that preschool, any other schools
 13 you've attended?
 14 A. No.
 15 Q. Mr. Lewis, have you ever had a job?
 16 A. Can you rephrase the question as to during
 17 school years? Summertime?
 18 Q. Why don't we start with currently. Are you
 19 currently employed?
 20 A. No.
 21 Q. Have you ever worked at any time?
 22 A. Yes.
 23 Q. Can you tell me what your most recent job
 24 was?
 25 A. From June 2001 to August 2001, I was an

1 intern at a law firm.
 2 Q. Do you recall what law firm that was?
 3 A. Howard Rice.
 4 Q. Did you have a job title?
 5 A. Clerk.
 6 Q. Can you tell me what your job
 7 responsibilities were?
 8 MS. MAJD: Objection.
 9 MR. ROSENTHAL: Just briefly.
 10 MS. MAJD: Go ahead and answer, if you know.
 11 THE WITNESS: I'm sorry. Can you repeat the
 12 question?
 13 MR. ROSENTHAL: Sure.
 14 Q. On a day-to-day basis, can you tell me what
 15 you did, what your job entailed?
 16 MS. MAJD: So you know, to the extent that
 17 you had privileged information related to Howard Rice,
 18 if there were things that were related to Howard Rice
 19 that you weren't supposed to reveal to outside people,
 20 don't discuss that.
 21 MR. ROSENTHAL: Q. I'm not asking for
 22 specifics. Just on a day-to-day basis can you tell me
 23 what you did?
 24 A. Filing, computer input.
 25 Q. When you testified earlier that you were

1 contacted at work by Ms. Majd, was this the job you had
 2 at the time?
 3 A. Yes.
 4 Q. Prior to the summer of 2001, did you ever
 5 hold any other jobs?
 6 A. Yes.
 7 Q. Can you tell me what the job you had before
 8 that was?
 9 A. The summer of 2000, I worked at the
 10 Department of Human Services also as a file clerk.
 11 Q. Did you do roughly the same things in that
 12 position as you did during the summer of 2001?
 13 A. Yes.
 14 Q. When you say, "The Department of Human
 15 Services," was that part of state or local government?
 16 A. I don't know.
 17 Q. Was it for a private company?
 18 A. Not to my knowledge, I don't know.
 19 Q. Do you recall where that job was?
 20 A. Excuse me, as far as the address or where in
 21 the city or -- I don't understand.
 22 Q. Was it in San Francisco?
 23 A. Yes.
 24 Q. How about prior to the summer of 2000, did
 25 you have any jobs prior to that?

1 A. Summer of '99.
 2 Q. Can you tell me what job you had during that
 3 summer?
 4 A. I was the assistant art coordinator at a
 5 Boys and Girls Club.
 6 Q. Was that also here in San Francisco?
 7 A. Yes.
 8 Q. Just, again, very briefly, can you tell me
 9 what your day-to-day responsibilities were?
 10 A. Working with kids doing -- drawing art
 11 pictures and painting.
 12 Q. How about prior to the summer of 1999, any
 13 additional employment?
 14 A. No.
 15 Q. Okay. I would like to now turn to some of
 16 the specifics regarding your experience at Balboa over
 17 the past four years. Can you just tell me generally
 18 what your opinion is as to the qualifications of the
 19 teaching staff at Balboa as a whole?
 20 MS. MAJD: Objection. Vague. Calls for
 21 speculation. Calls for expert testimony and there is
 22 no foundation laid. You can answer, if you understand
 23 the question.
 24 THE WITNESS: As a whole, I cannot say, but
 25 there are a few that -- there were a few teachers, I

1 were qualified. Can you tell me who you had in mind?
 2 MS. MAJD: Do you understand the word
 3 "Qualified"?
 4 THE WITNESS: As far as not having the
 5 proper teaching credentials.
 6 MS. MAJD: He is asking questions which to
 7 me means he doesn't understand "Qualified."
 8 MR. ROSENTHAL: Q. When you used the words,
 9 "Not qualified" before, can you tell me what you meant?
 10 A. Not having a full understanding of the
 11 subject that they are teaching.
 12 Q. When you said that there were a few teachers
 13 who, in your opinion, were not qualified, using your
 14 definition, can you tell me who those teachers are?
 15 MS. MAJD: Objection. Vague and calls for
 16 speculation, but you can answer, if you know.
 17 THE WITNESS: During my junior year, I had
 18 three teachers from my advanced algebra class junior
 19 year and the first two teachers that I had were not
 20 qualified.
 21 MR. ROSENTHAL: Q. Any other teachers that
 22 you believe were not qualified?
 23 MS. MAJD: Objection. Vague. Calls for
 24 speculation. Calls for expert testimony.
 25 THE WITNESS: No.

1 should say, that, in my opinion, were unqualified.
 2 MR. ROSENTHAL: Q. Putting those few
 3 teachers aside, do you have an opinion as to the
 4 qualifications of the remaining teachers at Balboa?
 5 MS. MAJD: Objection. Vague. Calls for
 6 speculation. Overbroad. Calls for expert testimony.
 7 No foundation.
 8 THE WITNESS: No, I do not.
 9 MR. ROSENTHAL: Q. Other than the few
 10 teachers who you believe were not qualified, did you
 11 believe the remaining teachers at Balboa were
 12 qualified?
 13 MS. MAJD: Same objections.
 14 THE WITNESS: From my knowledge, yes, they
 15 were qualified.
 16 MR. ROSENTHAL: Q. Can you tell me which
 17 teachers you believed were not qualified?
 18 MS. MAJD: Objection. Vague. Calls for
 19 speculation. Lack of foundation. Calls for expert
 20 testimony. You can answer, if you understand the
 21 question.
 22 THE WITNESS: Can you rephrase it? I'm
 23 sorry.
 24 MR. ROSENTHAL: Q. You said there were a
 25 few teachers that, in your opinion, you did not believe

1 MR. ROSENTHAL: Q. Did you have any
 2 teachers -- any other teachers than those two in your
 3 advanced algebra class that you believe were not
 4 qualified over your entire four-year career at Balboa?
 5 MS. MAJD: Same objections. Overbroad.
 6 THE WITNESS: Can you be more specific as to
 7 long-term teachers, substitute teachers? I don't
 8 understand.
 9 MR. ROSENTHAL: Q. Why don't we start with
 10 long-term teachers. Were there any long-term teachers
 11 you had at Balboa over your four-year career other than
 12 the two, your advanced algebra teachers that you
 13 already mentioned that, in your opinion, were not
 14 qualified, using your definition?
 15 MS. MAJD: Objection. Vague as to
 16 "Long-term teachers." Also calls for speculation.
 17 THE WITNESS: To my knowledge, no.
 18 MR. ROSENTHAL: Q. When you used the term,
 19 "Long-term teachers," can you just tell me what you
 20 meant by that?
 21 A. I should have -- sorry, I should have said
 22 like regular teachers that are supposed to be there
 23 from the beginning of the school year to the end
 24 permanently.
 25 Q. Over your four years at Balboa, do you

1 remember there being any non long-term teachers, again,
 2 using your definition, that you believe were not
 3 qualified, again, using your definition for "Not
 4 qualified"?

5 MS. MAJD: Objection. Vague and calls for
 6 speculation. Calls for expert testimony.

7 THE WITNESS: My sophomore year, my Spanish
 8 class.

9 MR. ROSENTHAL: Q. Was there a particular
 10 teacher or teachers that were not qualified in
 11 connection with that class?

12 MS. MAJD: Same objections.

13 THE WITNESS: Two teachers, to my knowledge.

14 MR. ROSENTHAL: Q. And were those teachers
 15 substitute teachers?

16 A. Yes.

17 Q. Other than those two substitute teachers
 18 over your four years at Balboa, were there any other
 19 substitute teachers that you believe were not
 20 qualified?

21 MS. MAJD: Same objections.

22 THE WITNESS: No.

23 MR. ROSENTHAL: Q. Why don't we talk about
 24 your advanced algebra class for a moment. You said
 25 there were two teachers you had during that year -- two

1 of the three of the teachers you had during that year
 2 that, in your opinion, were not qualified. Can you
 3 tell me who they were?

4 A. Specifically names?

5 Q. Yes.

6 A. [REDACTED] It is a Spanish name. I can't
 7 really say it right. And [REDACTED]

8 Q. Can you spell either one of those names? It
 9 is not a spelling test. It would be helpful if you
 10 could.

11 A. They are on my transcript if you --

12 Q. That is fine if you want to consult your
 13 transcript.

14 A. [REDACTED] and [REDACTED]

15 Q. Did you have -- strike that.

16 Was it your opinion that the third teacher
 17 you had in connection with your advanced algebra class
 18 was qualified?

19 MS. MAJD: Objection. Vague. Calls for
 20 speculation. Calls for expert testimony.

21 THE WITNESS: To my knowledge, yes, he was
 22 qualified.

23 MR. ROSENTHAL: Q. Can you tell me who that
 24 teacher was?

25 A. Mr. Yuen. His last name was spelled

1 Y-u-e-n.

2 Q. Great. Thank you. Just so I'm clear, this
 3 was your advanced algebra class during your junior
 4 year, which was the 2000/2001 school year?

5 MS. MAJD: No.

6 MR. ROSENTHAL: Am I wrong?

7 MS. MAJD: I believe that is incorrect. Oh,
 8 no, you are absolutely right.

9 THE WITNESS: Yes.

10 MS. MAJD: Are we going to mark these as
 11 exhibits?

12 MR. ROSENTHAL: We will. We can mark them
 13 now.

14 MS. MAJD: As long as it is done.

15 MR. ROSENTHAL: Yes.

16 MS. MAJD: Okay.

17 MR. ROSENTHAL: We'll definitely go over it.
 18 We can mark it now since he has already referenced it.

19 MS. MAJD: Okay.

20 MR. ROSENTHAL: Do you have a copy that I
 21 can give the court reporter since I only have one copy?

22 MS. MAJD: Yes.

23

24 (Whereupon, Defendant's Exhibits 1 and 2
 25 were marked for identification.)

1 MR. ROSENTHAL: Just for the record, we've
 2 marked the two-page transcript that was given to me
 3 today as Exhibit 1 and we've marked the one additional
 4 page which appears to be a copy of an award as
 5 Exhibit 2.

6 Q. Mr. Lewis, I'm going to ask you to take a
 7 quick look at what we've marked as Exhibit No. 2. Can
 8 you tell me what that is?

9 A. It was an award I received during my junior
 10 year from being in the Law Academy.

11 Q. The award appears to read "Student of the
 12 Year Motivational Award." Do you have an understanding
 13 as to what that means?

14 A. From my knowledge, from what my teacher told
 15 me, being able to motivate other students to want to do
 16 work and succeed as well.

17 Q. Was it -- do you recall who gave you the
 18 award?

19 A. The specific teacher's name?

20 Q. Was it a -- strike that.

21 Was it an award given by a specific teacher?

22 MS. MAJD: Calls for speculation. If you
 23 know, you can answer.

24 THE WITNESS: From my knowledge, it was two
 25 teachers. It was part of the Law Academy and it was

1 kind of in conjunction, so it was an award that they
 2 decided to give you together.
 3 MR. ROSENTHAL: Q. Was it an award given
 4 out annually to a student in the Law Academy?
 5 A. Not to my knowledge.
 6 Q. Was it a one-time award?
 7 MS. MAJD: Calls for speculation.
 8 MR. ROSENTHAL: Q. To the extent you know.
 9 A. No, I don't know.
 10 Q. Has anybody else ever received the Student
 11 of the Year Motivational Award at Balboa to the extent
 12 you know?
 13 MS. MAJD: Calls for speculation.
 14 THE WITNESS: I don't know.
 15 MR. ROSENTHAL: Q. Can you tell me who the
 16 two teachers were who were involved with presenting you
 17 with the award?
 18 A. Mr. Bond and Ms. Safir.
 19 Q. Did the Law Academy give out other awards as
 20 well?
 21 A. There were a total of four. There were
 22 three other different awards also.
 23 Q. Do you recall what the other awards were?
 24 A. To my knowledge, there was the Quiet Genius
 25 Award and the other two I cannot remember.

1 [REDACTED]
 2 A. Yeah, but we called him by his first name
 3 [REDACTED]
 4 Q. Why don't we call him [REDACTED] then?
 5 A. Okay.
 6 Q. Do you recall -- did [REDACTED] stay for
 7 the entire school year?
 8 MS. MAJD: Calls for speculation.
 9 THE WITNESS: Yes, he did.
 10 MR. ROSENTHAL: Q. Did he teach your class
 11 for the entire school year?
 12 A. No, he did not.
 13 Q. Do you recall when he was no -- when he left
 14 your class?
 15 MS. MAJD: Vague.
 16 MR. ROSENTHAL: Q. Do you understand the
 17 question?
 18 A. No, I don't. Can you rephrase it, please?
 19 MR. ROSENTHAL: Q. At some point in time,
 20 did [REDACTED] -- was he no longer your permanent
 21 teacher for that class?
 22 A. Yes.
 23 Q. Do you recall when that happened?
 24 MS. MAJD: Vague as to "Permanent teacher."
 25 THE WITNESS: It was January of 2001.

1 Q. Do you remember who received any of the
 2 other three awards?
 3 A. Specific names?
 4 Q. Right.
 5 A. Philippe Williams, Wendy Chan, Jacqueline
 6 Montessero.
 7 Q. Is that it?
 8 A. Yeah.
 9 Q. And the only one you specifically remember
 10 the name of was the Quiet Genius Award. Do you
 11 remember which one of the three won that?
 12 A. Mr. Philippe Williams.
 13 Q. Great. Do you know whether these awards
 14 will be given out this year as well?
 15 MS. MAJD: Calls for speculation.
 16 MR. ROSENTHAL: Q. To the extent you know.
 17 A. I don't know if they'll be given out.
 18 Q. We can put Exhibit 2 aside, if you want, and
 19 get back to talking about your advanced algebra class.
 20 You said that you -- strike that.
 21 Do you recall who your teacher was on the
 22 first day of class in advanced algebra during your
 23 junior year?
 24 A. Yes, [REDACTED].
 25 Q. And did [REDACTED] -- it is pronounced

1 MR. ROSENTHAL: Q. And in January of 2001,
 2 did another teacher replace [REDACTED] in your
 3 advanced algebra class?
 4 A. Yes, the students were transferred out. Our
 5 class was transferred out of [REDACTED] class into
 6 another teacher's.
 7 Q. So you switched classes?
 8 A. Yeah, the teachers.
 9 MS. MAJD: I'm sorry. I want to clarify his
 10 testimony. He said the entire class was transferred
 11 out, not him specifically.
 12 THE WITNESS: The entire class was
 13 transferred out and we switched with an ESL class.
 14 MR. ROSENTHAL: Thank you for clarifying.
 15 Q. So starting in January of 2001, you had a
 16 new teacher, but the same classmates?
 17 A. Yes.
 18 Q. Can you tell me who the teacher was in
 19 January of 2001 who took over for [REDACTED]
 20 A. [REDACTED].
 21 Q. Do you recall how long [REDACTED] -- strike that.
 22 Did [REDACTED] remain as your advanced
 23 algebra teacher for the rest of the school year?
 24 A. Approximately I would say until March, the
 25 end of March.

1 Q. In roughly the end of March, did -- is that
2 when Mr. Yuen became your advanced algebra teacher?

3 A. Yes.

4 Q. Did Mr. Yuen remain for the rest of the
5 school year --

6 A. Yes.

7 Q. -- in your advanced algebra class?

8 A. I'm sorry.

9 Q. That is okay.

10 A. Yes.

11 MS. MAJD: Michael, we've been going for
12 about an hour now. It is 11:45. Can we take a break?

13 MR. ROSENTHAL: Sure, that is fine.

14 MS. MAJD: I want the record to reflect we
15 were here at 9:30, but the deposition didn't start
16 until 10:45, I believe.

17 MR. ROSENTHAL: Yes, I apologize for that
18 and as I explained to Ms. Majd, I was not feeling well
19 this morning and I apologize and I appreciate your
20 accommodating me.

21 MS. MAJD: Sorry you don't feel well.

22 MR. ROSENTHAL: Off the record.

23 (Recess taken.)

24 MR. ROSENTHAL: Q. Mr. Lewis, do you
25 understand you are still under oath?

1 Q. Actually, just one more question about it,
2 if you want to turn back to page 27 and 28, is there
3 something contained -- strike that.

4 Have you only seen the materials on these
5 two pages relating to Balboa High School?

6 A. Yes.

7 Q. Is there anything on those two pages that
8 appears to you to be incorrect?

9 MS. MAJD: Objection. Overbroad and vague.
10 Antonio, take your time to read it all.

11 MR. ROSENTHAL: Yes, take as long as you
12 need to.

13 MS. LUCAS: Why don't we take a minute
14 break.

15 MR. ROSENTHAL: That is fine. We can go off
16 for a minute so he has time to read it.

17 (Recess taken.)

18 THE WITNESS: Okay.

19 MR. ROSENTHAL: Q. Have you had an
20 opportunity to read those two pages?

21 A. Yes.

22 Q. Is there anything contained on those two
23 pages which appears to be incorrect?

24 MS. MAJD: Objection. Vague as to time.
25 Vague as to "Incorrect" and calls for speculation.

1 A. Yes, I do.

2 Q. And you understand you'll be under oath all
3 day even though we take breaks here and there?

4 A. Yes.

5 MR. ROSENTHAL: Obviously you are not under
6 oath when we take a break. I'm going to ask you to
7 take a look at this document and see if you recognize
8 it. I'll ask Ms. Majd to stipulate that this is a copy
9 of the first amended complaint.

10 MS. MAJD: Yes, I'll stipulate to that.

11 THE WITNESS: Sorry, page 27.

12 MR. ROSENTHAL: Q. Have you seen that
13 document as a whole? By "whole" I mean the entire
14 document I just gave you or have you just seen excerpts
15 from that document?

16 A. Excerpts.

17 Q. And you've seen page 27. Have you seen any
18 other pages in addition to page 27?

19 A. Sorry. Can you hold on for a second?

20 Q. Sure. Take your time.

21 A. Page 27 and all but the last paragraph on
22 page 28.

23 Q. And other than those two pages, have you
24 seen any other pages from the first amended complaint?

25 A. No.

1 THE WITNESS: Not to my knowledge.

2 MR. ROSENTHAL: I can take it back now.

3 Q. Mr. Lewis, prior to our break, we were
4 talking about your advanced algebra course and I would
5 like to ask you a few more questions about that.

6 A. Okay.

7 Q. You said earlier that you did not believe
8 that [REDACTED] was qualified. Can you explain to
9 me why you think he was not qualified to teach your
10 advanced algebra class?

11 MS. MAJD: Objection. Vague and calls for
12 speculation.

13 THE WITNESS: I do not have a clear answer
14 as to why. Can you rephrase the question, please?

15 MR. ROSENTHAL: Sure.

16 Q. Earlier today I asked you -- strike that.

17 Earlier you identified some teachers who you
18 said were not qualified and [REDACTED] was one of
19 the teachers you identified. Can you tell me why you
20 believe he specifically was not qualified to teach
21 advanced algebra?

22 MS. MAJD: Same objection.

23 THE WITNESS: Because some of the times in
24 class, he would even get stuck on some of the algebra
25 problems and have to refer to the book, his teacher's

1 edition of the book, sorry.

2 MR. ROSENTHAL: Q. Do you recall how often
3 something like that happened?

4 MS. MAJD: Objection. Vague.

5 THE WITNESS: Roughly twice a week, three
6 times a week, maybe.

7 MR. ROSENTHAL: Q. Any other reasons you
8 believe that [REDACTED] was not qualified to teach
9 advanced algebra?

10 MS. MAJD: Calls for speculation.

11 THE WITNESS: No.

12 MR. ROSENTHAL: Q. Do you know whether [REDACTED]
13 [REDACTED] had a full teaching credential?

14 MS. MAJD: Calls for speculation and for a
15 legal conclusion.

16 THE WITNESS: I do not know.

17 MR. ROSENTHAL: Q. You also said that [REDACTED]
18 [REDACTED] was a teacher who you believed was not
19 qualified. Can you tell me why you believe he was not
20 qualified?

21 MS. MAJD: Objection. Vague and calls for
22 speculation.

23 THE WITNESS: Because once during a class,
24 he told the entire class that his expertise was
25 English, despite him being our advanced algebra teacher

1 A. No. Can you rephrase it, please?

2 Q. Sure. When you no longer had [REDACTED]
3 as your advanced algebra teacher in roughly January
4 2001, [REDACTED] took over the class. Did you have an
5 understanding as to whether he was supposed to stay
6 there for the rest of the school year or was he just
7 going to be there for a limited time?

8 MS. MAJD: Calls for speculation.

9 THE WITNESS: We as the students had an
10 understanding he was going to be our permanent teacher.
11 I shouldn't say "Permanent," but our teacher for the
12 remainder of the school year, but prior to us receiving
13 our last and final third teacher, Mr. Yuen, [REDACTED]
14 stated to us that he was just a long-term substitute.

15 MR. ROSENTHAL: Q. Do you recall when [REDACTED]
16 [REDACTED] told you that?

17 A. Not specifically, but I can estimate it was
18 a few days prior to the end of March when we got our
19 final teacher.

20 Q. Do you know why he told you that at that
21 time?

22 MS. MAJD: Calls for speculation.

23 THE WITNESS: No, I do not.

24 MR. ROSENTHAL: Q. Prior to that, had [REDACTED]
25 [REDACTED] ever told you that he was the permanent teacher

1 and also sometimes the students would have to correct
2 him when he was trying to show how to do problems on
3 the board.

4 MR. ROSENTHAL: Q. Did [REDACTED] -- do you
5 know whether [REDACTED] had any training in math at
6 all?

7 MS. MAJD: Vague.

8 THE WITNESS: I do not know.

9 MR. ROSENTHAL: Q. About how often would it
10 occur that students would have to correct [REDACTED] in
11 the way you just described?

12 A. Fairly often.

13 Q. Is it possible to estimate in a given week?

14 A. Given week, perhaps four times a week.

15 Q. Anything else that forms the basis of your
16 opinion that [REDACTED] was not qualified?

17 MS. MAJD: Objection. Vague.

18 THE WITNESS: No.

19 MR. ROSENTHAL: Q. Did you have an
20 understanding as to whether [REDACTED] was a permanent
21 replacement for [REDACTED]?

22 MS. MAJD: Vague as to "Permanent
23 replacement." Calls for speculation.

24 MR. ROSENTHAL: Q. Do you understand the
25 question?

1 for the rest of the school year?

2 A. No, he did not.

3 Q. You said roughly the end of March, Mr. Yuen
4 took over -- strike that.

5 I'm sorry. Let me ask one more question
6 about [REDACTED]. Do you know whether [REDACTED] had
7 his full teaching credential?

8 MS. MAJD: Calls for a legal conclusion.

9 Calls for speculation.

10 THE WITNESS: No, I do not know.

11 MR. ROSENTHAL: Q. Do you know what a full
12 teaching credential is?

13 A. No.

14 Q. Do you know what an emergency teaching
15 credential is?

16 A. No.

17 Q. Well, that will save some time, then. With
18 respect to Mr. Yuen who started as your teacher in
19 roughly the end of March, you said that it was your
20 opinion that he was qualified to teach advanced
21 algebra. Can you tell me how you reached that opinion?

22 MS. MAJD: Calls for speculation.

23 THE WITNESS: From my understanding, since
24 he majored in math and got a degree in math from the --
25 from UC Berkeley, that was my opinion from him having

1 or being qualified from having a degree in math from UC
 2 Berkeley.
 3 MR. ROSENTHAL: Q. Did Mr. Yuen make any of
 4 the kinds of errors that [REDACTED] and [REDACTED]
 5 made, to your knowledge?
 6 MS. MAJD: Objection. Vague.
 7 THE WITNESS: Not to my knowledge, no.
 8 MR. ROSENTHAL: Q. How was Mr. Yuen in
 9 class? Was he able to control the classroom?
 10 MS. MAJD: Objection. Vague.
 11 MR. ROSENTHAL: Q. Do you understand the
 12 question?
 13 A. What do you mean by "Control?"
 14 Q. Can you describe for me his classroom
 15 management skills? Do you understand that?
 16 MS. MAJD: Vague.
 17 THE WITNESS: No, I do not understand.
 18 MR. ROSENTHAL: Sure.
 19 Q. Can you just describe for me a typical day
 20 in Mr. Yuen's class?
 21 MS. MAJD: Vague.
 22 THE WITNESS: Usually a typical day in Mr.
 23 Yuen's class would be pretty normal. Every student
 24 would come in and we would talk obviously before the
 25 bell rang for class to start and once the bell rang for

1 MR. ROSENTHAL: To the extent you know.
 2 THE WITNESS: To the extent that I know, the
 3 reason why our class was transferred out of [REDACTED]
 4 [REDACTED] class was because he was a native Spanish
 5 speaker. Spanish was his first language and the class
 6 that the other students, the ESL English second
 7 language students came from, those were students who
 8 English was not their first language, so it only made
 9 sense to put those students with a teacher who spoke
 10 their language and could relate the work, I guess, I
 11 would say or to the extent that I know of, make it
 12 easier for them to learn from a native speaker of their
 13 own language.
 14 MR. ROSENTHAL: Q. So rather than
 15 continuing to teach your class, [REDACTED] took over
 16 a class for ESL students?
 17 A. To my knowledge, yes.
 18 Q. Do you know who was teaching the ESL class
 19 prior to [REDACTED]
 20 A. Not to my knowledge, no.
 21 Q. When you say your class was transferred, can
 22 you tell me what you mean by that?
 23 A. Our entire class -- [REDACTED] had told
 24 us before Christmas break of December 2000 that we
 25 would no longer be in his classroom and the students

1 class to start, everyone would take their seats and he
 2 would tell us what we were going to be studying or
 3 doing for the period for today and we would do the work
 4 and then he would assign homework to us and tell us
 5 what to do. He would tell us he'll see us tomorrow in
 6 class.
 7 MR. ROSENTHAL: Q. Did Mr. Yuen strike you
 8 as an organized teacher?
 9 MS. MAJD: Objection. Vague.
 10 THE WITNESS: Yes.
 11 MR. ROSENTHAL: Q. In your opinion, did he
 12 run his classrooms well?
 13 MS. MAJD: Vague.
 14 THE WITNESS: In my opinion, yes.
 15 MR. ROSENTHAL: Q. Were students generally
 16 well-behaved in his class?
 17 MS. MAJD: Objection. Vague and calls for
 18 speculation.
 19 THE WITNESS: To my knowledge, yes.
 20 MR. ROSENTHAL: Q. You touched on this, but
 21 I want to make sure our record is clear. In roughly
 22 January 2001, you said [REDACTED] stopped being your
 23 advanced algebra teacher. Can you tell me why that was
 24 the case?
 25 MS. MAJD: Calls for speculation.

1 asked why and he said we're being transferred to a
 2 different teacher. He didn't know. And he said, well,
 3 when we get back from Christmas break for the new
 4 semester, we would have a new advanced algebra teacher.
 5 Q. So did your -- starting in roughly January
 6 2001, did your advanced algebra class meet in a
 7 different physical classroom?
 8 A. Yes.
 9 Q. Now, roughly the end of March, you said [REDACTED]
 10 [REDACTED] was replaced with Mr. Yuen in your advanced
 11 algebra class. Do you have an understanding as to why
 12 that change in teacher occurred?
 13 MS. MAJD: Calls for speculation.
 14 MR. ROSENTHAL: Q. To the extent you know.
 15 A. No, I do not.
 16 Q. Did [REDACTED] ever tell you why he was
 17 going to stop teaching that advanced algebra class?
 18 A. No, he did not.
 19 Q. When Mr. Yuen became your advanced algebra
 20 teacher, was it your understanding that he was the
 21 permanent replacement for that class?
 22 MS. MAJD: Objection. Vague as to
 23 "Permanent replacement."
 24 THE WITNESS: From my understanding, he was
 25 going to be our teacher for the remainder of the school

1 year.

2 MR. ROSENTHAL: Q. Does Mr. Yuen still
3 teach at Balboa?

4 MS. MAJD: Calls for speculation.

5 THE WITNESS: No, he does not.

6 MR. ROSENTHAL: Q. Now, I want to turn your
7 attention to the Spanish class during your sophomore
8 year which would have been the 1999/2000 school year, I
9 believe; is that right?

10 A. Yes.

11 Q. Can you tell me who your teacher was for
12 that class at the start of the school year?

13 A. Mr. Miller.

14 Q. And at some point in time, did Mr. Miller
15 stop teaching your Spanish class?

16 A. Yes, he did.

17 Q. Do you remember when in the school year that
18 occurred?

19 A. Roughly I would say March 2000.

20 Q. And roughly March 2000, was there a
21 replacement for Mr. Miller in your Spanish class?

22 A. Yes, there was.

23 Q. Can you tell me who that was?

24 A. Mr. Robinson.

25 Q. And did Mr. Robinson remain your teacher for

1 the remainder of the school year in that class?

2 A. No, he did not.

3 Q. Do you recall how long Mr. Robinson was the
4 teacher for that class?

5 A. Well, Mr. Robinson started two stints as our
6 teacher. He was our first teacher after Mr. Miller was
7 no longer there and he was the teacher which,
8 ironically, finished out the year as well.

9 Q. Why don't we first deal with the first time
10 that Mr. Robinson was your teacher. Do you recall how
11 long he was the teacher for the Spanish class during
12 that stint?

13 A. Roughly a few weeks, two to three weeks.

14 MS. MAJD: Michael, can we just have Antonio
15 spell his name for the record? I think he is
16 pronouncing it differently.

17 MR. ROSENTHAL: Sure; absolutely.

18 THE WITNESS: R-o-b-i-n-s-o-n.

19 MS. MAJD: Okay.

20 MR. ROSENTHAL: Q. Do you recall who the
21 next teacher was you had after Mr. Robinson in
22 connection with that Spanish class?

23 A. What I can remember, the last name was [REDACTED]
24 [REDACTED], but I cannot recall whether it was a Mr. or
25 Mrs.

1 Q. Do you recall how long you had [REDACTED]
2 [REDACTED]

3 A. Roughly a week.

4 Q. And after [REDACTED] was the teacher in
5 your Spanish class, can you tell me who the next
6 teacher was?

7 A. I cannot. Excuse me, I do not remember his
8 name, but he taught the class for also a few weeks.

9 Q. And after that male substitute -- it was a
10 male?

11 A. Yes.

12 Q. After that male substitute, who replaced
13 [REDACTED], was there for a few weeks, was there a
14 subsequent teacher who taught the Spanish class?

15 A. Yes. Again, I don't remember the name, but
16 it was a female substitute and she taught roughly, I
17 would say, a few days. She was there for a few days.

18 Q. And after she taught for a few days, was
19 there another teacher who taught the Spanish class
20 after that?

21 A. No, Mr. Robinson returned and finished the
22 remainder of the school year.

23 Q. Do you recall when Mr. Robinson returned to
24 the class?

25 A. I do not recall.

1 Q. Is it possible to estimate or are you not
2 able to do that?

3 A. I'm not able to do that.

4 Q. All right. Just so I'm clear, Mr. Robinson,
5 when he came back for that second stint, remained until
6 the end of the school year?

7 A. Correct.

8 Q. Do you have an understanding as to why, in
9 roughly March of 2000, Mr. Miller was no longer the
10 teacher of your Spanish class?

11 MS. MAJD: Calls for speculation.

12 THE WITNESS: No, I do not know.

13 MR. ROSENTHAL: Q. Did Mr. Miller continue
14 to teach at Balboa during that school year or was he no
15 longer there?

16 MS. MAJD: Calls for speculation.

17 MR. ROSENTHAL: Q. To the extent you know.
18 A. He was no longer there.

19 Q. Do you know whether Mr. Miller is teaching
20 at Balboa currently?

21 A. No; he is not a teacher currently, no.

22 Q. The first substitute you had in that class
23 was Mr. Robinson. At the time he took over the class,
24 was it your understanding that he was to be the
25 permanent replacement for the Spanish class?

1 MS. MAJD: Vague.
 2 MR. ROSENTHAL: Q. Do you understand the
 3 question?
 4 A. No, I do not. Can you rephrase it, please?
 5 Q. Sure. I'm just trying to figure out if you
 6 had an understanding whether Mr. Robinson was going to
 7 finish out the school year or if he was a temporary
 8 substitute.
 9 MS. MAJD: In that class?
 10 MR. ROSENTHAL: In that class.
 11 THE WITNESS: We were not told that he was
 12 going to be a temporary substitute. From my
 13 understanding, he was going to be the teacher for the
 14 remainder of the school year.
 15 MR. ROSENTHAL: Q. You said during his
 16 first stint, you said he was there for a few weeks. Do
 17 you have an understanding as to why he was not the
 18 teacher after that time?
 19 A. No, I do not.
 20 Q. You said that -- you testified earlier that
 21 two of the substitute teachers in connection with your
 22 Spanish class were not qualified, in your opinion, to
 23 teach that class. Can you tell me which two of the
 24 substitutes you were referring to?
 25 A. To my knowledge, [REDACTED] and the

1 female substitute. I cannot remember her name at this
 2 moment.
 3 Q. Okay. Was it your opinion that Mr. Robinson
 4 was qualified to teach Spanish class?
 5 MS. MAJD: Objection. Vague. Calls for
 6 speculation. Calls for expert testimony.
 7 THE WITNESS: I do not know if he was
 8 qualified or not, no.
 9 MR. ROSENTHAL: Q. Did you have an opinion
 10 as to whether he was qualified to teach the class?
 11 MS. MAJD: Same objections.
 12 THE WITNESS: Opinion, yeah, I thought he
 13 was qualified to teach. He was able to speak Spanish
 14 fluently.
 15 MR. ROSENTHAL: Q. When he was your
 16 teacher, did he instruct the class in Spanish?
 17 A. For the most part, yes.
 18 Q. Did you learn Spanish when Mr. Robinson was
 19 your teacher?
 20 A. Yes.
 21 Q. Can you tell me why you think -- why it was
 22 your opinion that [REDACTED] was not qualified to
 23 teach the Spanish class?
 24 MS. MAJD: Vague. Calls for speculation and
 25 expert testimony.

1 THE WITNESS: From my knowledge, [REDACTED]
 2 [REDACTED] really did not know the language well or different
 3 phrases and pronunciations and different things in the
 4 textbook.
 5 MR. ROSENTHAL: Q. Did [REDACTED]
 6 attempt to instruct the class in Spanish?
 7 MS. MAJD: Calls for speculation and vague.
 8 THE WITNESS: Yes.
 9 MR. ROSENTHAL: Q. And was [REDACTED]
 10 successful in that regard, in your opinion?
 11 MS. MAJD: Vague.
 12 THE WITNESS: No.
 13 MR. ROSENTHAL: Q. Did [REDACTED]
 14 have -- strike that.
 15 Was [REDACTED] able to communicate in
 16 Spanish at all?
 17 MS. MAJD: Vague. Calls for speculation.
 18 THE WITNESS: Somewhat, the more easier
 19 pronounced words.
 20 MR. ROSENTHAL: Q. You also said that
 21 the -- strike that.
 22 You said [REDACTED] taught the Spanish
 23 class for roughly a week over that time period. Did
 24 that substitute assign homework to the students in the
 25 class?

1 A. That I can remember, there were perhaps two
 2 to three instances where [REDACTED] assigned
 3 homework.
 4 Q. When [REDACTED] was the substitute, did
 5 you have an understanding as to whether [REDACTED]
 6 was going to be the permanent teacher -- permanent
 7 replacement teacher for that class?
 8 MS. MAJD: Vague as to "Permanent
 9 replacement." I think he already said he didn't
 10 understand that.
 11 THE WITNESS: I don't understand.
 12 MR. ROSENTHAL: Q. At the time you had
 13 [REDACTED], was it your understanding that that
 14 substitute was going to be the teacher for the
 15 remainder of the school year?
 16 A. From my understanding, yes, but we, as a
 17 class, were skeptical about it.
 18 Q. When you say that was your understanding,
 19 can you tell me what the basis for that understanding
 20 is?
 21 A. The basis was [REDACTED] saying they
 22 were going to be there for the rest of the year.
 23 Q. Do you know why [REDACTED], after
 24 approximately a week, no longer continued to teach that
 25 class?

1 A. No, I do not.
 2 Q. You said that [REDACTED] was replaced
 3 by a male substitute for a few weeks. Do you have an
 4 opinion as to whether that male substitute was
 5 qualified to teach the Spanish class?

6 MS. MAJD: Vague and calls for speculation
 7 and expert testimony.

8 THE WITNESS: I do not know if he was
 9 qualified enough to teach the class, but he did not
 10 show the effort to teach the class, nor did he try to
 11 teach the class.

12 MR. ROSENTHAL: Q. When that substitute was
 13 teaching the class, was it your understanding that that
 14 teacher would remain for the remainder of the school
 15 year?

16 MS. MAJD: That mischaracterizes the
 17 testimony. He said he didn't make an effort to teach
 18 the class.

19 THE WITNESS: He didn't make an effort and
 20 when the students asked him if you are going to be our
 21 final teacher for the year, he said he did not know.

22 MR. ROSENTHAL: Q. When that male
 23 substitute teacher was the teacher for Spanish, did he
 24 instruct the class in Spanish at all?

25 MS. MAJD: Objection. Vague.

1 MS. MAJD: Objection. Vague as to
 2 "Training." Calls for speculation.

3 THE WITNESS: No, I do not know.

4 MR. ROSENTHAL: Q. Do you know whether the
 5 male substitute who taught that class could speak
 6 Spanish?

7 A. From my knowledge, he knew, like the
 8 previous [REDACTED] a few of the easier phrases,
 9 but nothing beyond that.

10 Q. Now, you identified the female substitute
 11 who came after the male substitute as being one of the
 12 substitutes you did not believe -- who you believed was
 13 not qualified to teach the class. Can you tell me what
 14 your basis -- what the basis for your opinion is?

15 A. As the previous two substitutes, she didn't
 16 really, in my opinion, make a full effort to reach out
 17 to the students to want to help them learn Spanish
 18 because she seemed to be able -- I wouldn't say fluent,
 19 but she seemed knowledgeable about the subject and able
 20 to speak it fairly well, more better than the previous
 21 subs, but perhaps she had her own agenda. I do not
 22 know.

23 Q. You said she was the substitute for the
 24 class for a few days. Did she instruct the class in
 25 Spanish over those days?

1 THE WITNESS: No.

2 MR. ROSENTHAL: Q. Did he assign any
 3 homework to the students?

4 A. No.

5 Q. Can you tell me what students did in that
 6 class when that male substitute was teaching?

7 MS. MAJD: Objection. Calls for
 8 speculation.

9 THE WITNESS: From my knowledge, instead of
 10 doing work or instead of a teaching, instructing the
 11 class, he would tell the students that they can bring
 12 in movies to watch.

13 MR. ROSENTHAL: Q. I'm not trying to put
 14 words in your mouth, but did students -- during that
 15 class period, did you watch movies on a daily basis
 16 when that teacher was the substitute?

17 A. Yes.

18 Q. Do you have an understanding as to why that
 19 male substitute was replaced at some point by a female
 20 substitute?

21 MS. MAJD: Calls for speculation.

22 THE WITNESS: No, I do not.

23 MR. ROSENTHAL: Q. Do you know whether the
 24 male substitute we've been talking about had any
 25 training in Spanish at all?

1 MS. MAJD: Objection. Vague.

2 THE WITNESS: She made an effort to her
 3 first day when we went in her class and she spoke to us
 4 in Spanish, yes.

5 MR. ROSENTHAL: Q. Did that substitute
 6 assign homework to students in the class?

7 A. From what I can remember, the few days she
 8 was there, the first day, we got homework, correct.

9 Q. After the first day that she taught, did she
 10 instruct the class in Spanish?

11 MS. MAJD: Vague.

12 THE WITNESS: No, she did not. She did not
 13 instruct the class at all.

14 MR. ROSENTHAL: Q. Can you tell me what the
 15 class did when that female substitute was in the class
 16 after that first day?

17 MS. MAJD: Calls for speculation and it is
 18 vague.

19 THE WITNESS: Once again, as the previous
 20 subs, she would sit in the back of the room at the
 21 teacher's desk and since we were not doing nothing in
 22 class, students would bring movies, once again, to
 23 watch during class, during her time period, sorry.

24 MR. ROSENTHAL: Q. On the first day of
 25 class when the female substitute attempted to teach the

1 class in Spanish, can you tell me how the students in
2 the class behaved?
3 MS. MAJD: Objection. Vague and calls for
4 speculation.
5 THE WITNESS: I cannot remember how the
6 entire class behaved.
7 MR. ROSENTHAL: Q. Do you recall students
8 sitting in their desks and paying attention to the
9 lesson?
10 MS. MAJD: Objection. Calls for
11 speculation. It is vague.
12 THE WITNESS: Yes.
13 MR. ROSENTHAL: Q. Do you have any
14 understanding as to why this substitute did not
15 continue to instruct the class on the second day she
16 was in the class?
17 MS. MAJD: Calls for speculation.
18 THE WITNESS: No, I do not.
19 MR. ROSENTHAL: Q. When you say she was a
20 substitute for a few days, is there any way you can
21 give me an estimate as to how many days she taught the
22 class?
23 A. Approximately three to five days.
24 Q. After this female substitute, you said Mr.
25 Robinson returned and that he remained until the end of

1 THE WITNESS: My advanced algebra class my
2 junior year.
3 MR. ROSENTHAL: Q. Is that the class we
4 just talked about?
5 A. Correct.
6 Q. Other than conversations regarding the
7 Spanish and the advanced algebra class we've been
8 talking about, did you have any other conversations
9 with any other students in which they expressed their
10 opinion about the qualifications of teachers at Balboa?
11 MS. MAJD: Same objection.
12 THE WITNESS: No.
13 MR. ROSENTHAL: Q. Had you ever heard that
14 anybody else had any concerns about the qualifications
15 of teachers at Balboa?
16 MS. MAJD: Same objection.
17 THE WITNESS: Not to my knowledge, no.
18 MR. ROSENTHAL: Q. Can you describe for me
19 generally the availability of textbooks at Balboa over
20 the four years that you were a student there?
21 MS. MAJD: Objection. Vague. Overbroad.
22 Calls for speculation.
23 THE WITNESS: Can you rephrase the question,
24 please?
25 MR. ROSENTHAL: Sure.

1 the year when he was the teacher, did he instruct the
2 class in Spanish?
3 MS. MAJD: Objection. Vague. Calls for
4 speculation.
5 THE WITNESS: From my knowledge, yes.
6 MR. ROSENTHAL: Q. Did he assign homework
7 to students?
8 A. Yes.
9 Q. Did he give quizzes and tests in class?
10 A. Yes.
11 Q. Have you ever had any conversations with
12 other students at Balboa in which they expressed their
13 opinion about the qualification of teachers at Balboa?
14 MS. MAJD: Objection. Vague as to
15 "Qualifications."
16 THE WITNESS: From my knowledge, my
17 sophomore Spanish class when we had the series of
18 substitute teachers, many students voiced their
19 displeasure about it, yes.
20 MR. ROSENTHAL: Q. Other than conversations
21 in connection with the Spanish class during your
22 sophomore year, did you have any other conversations
23 with students in which they expressed their opinion
24 about the qualifications of teachers at Balboa?
25 MS. MAJD: Same objection.

1 Q. I'm asking you to tell me generally how
2 available textbooks were at Balboa over the four years
3 you were a student there.
4 MS. MAJD: Same objections.
5 THE WITNESS: Generally there was a shortage
6 because the students were in -- overall, the students
7 were not able to take books home. There was only one
8 class set which we had to share in certain classes.
9 MR. ROSENTHAL: Q. Was that true for all of
10 your classes over your four years at Balboa?
11 A. Not to my knowledge, no.
12 Q. Can you tell me for which classes you had a
13 shortage of textbooks?
14 MS. MAJD: Objection. Calls for speculation
15 and vague as to "Shortage."
16 THE WITNESS: My Spanish class freshman year
17 and sophomore year and my advanced algebra class junior
18 year.
19 MR. ROSENTHAL: Q. Other than those three
20 classes, did you experience any shortage of textbooks
21 in connection with any other class you took at Balboa
22 over your four years there?
23 MS. MAJD: Vague and calls for speculation.
24 THE WITNESS: No, not that I can remember.
25 MS. MAJD: Do you need a break?

1 THE WITNESS: I need to use the bathroom,
 2 kind of.
 3 MS. MAJD: Yes, can we take a break?
 4 MR. ROSENTHAL: Sure.
 5 (Recess taken.)
 6 MR. ROSENTHAL: Q. Mr. Lewis, before our
 7 brief break, you identified some classes in which you
 8 had a shortage of textbooks. The first class you
 9 identified was your freshman year Spanish class. Do
 10 you recall how many students approximately you had in
 11 that class?
 12 A. Approximately 30 to 35 students.
 13 Q. And do you recall how many copies of the
 14 textbook were available in that class?
 15 A. I would approximately say 25.
 16 Q. Were students able to take those textbooks
 17 home with them?
 18 MS. MAJD: Calls for speculation.
 19 THE WITNESS: No.
 20 MR. ROSENTHAL: Q. Were there any -- ever
 21 any instances that you are aware of in which students
 22 were able to take one of the textbooks home for a night
 23 or two?
 24 A. Regarding my freshman Spanish class?
 25 Q. Right.

1 A. No.
 2 Q. Now, earlier you said that in some
 3 instances, there was only one class set of textbooks
 4 that were used among different classes. Were the
 5 textbooks you used in connection with your freshman
 6 year Spanish class used exclusively in your Spanish
 7 class or were they shared with another class?
 8 MS. MAJD: Calls for speculation.
 9 MR. ROSENTHAL: Q. To the extent you know.
 10 A. To the extent I know, the class set was for
 11 a number of different other classes besides mine.
 12 Q. Do you recall how many other classes used
 13 those same roughly 25 textbooks?
 14 A. Approximately two to three.
 15 Q. Did all the Spanish -- did all the Spanish
 16 classes that shared these textbooks meet in the same
 17 classroom?
 18 MS. MAJD: Calls for speculation.
 19 MR. ROSENTHAL: Q. To the extent you know.
 20 A. To the extent I know, yes.
 21 Q. So the textbooks were always maintained in
 22 that particular classroom?
 23 A. Yes.
 24 Q. Do you have any understanding as to why
 25 there was a shortage of Spanish textbooks during your

1 freshman year?
 2 A. No, I do not.
 3 Q. Do you recall the name of that textbook?
 4 A. I believe it was titled "Bravo."
 5 Q. Do you remember the name of your Spanish
 6 teacher during your freshman year?
 7 A. Yes, Ms. Cusigch.
 8 Q. Can you spell that or is that reflected on
 9 your transcript?
 10 A. It is here, C-u-s-i-g-c-h.
 11 Q. Since there was a shortage of textbooks in
 12 the class, can you describe for me how the teacher
 13 managed the class when she was using the textbooks to
 14 instruct the class?
 15 MS. MAJD: Calls for speculation and it is
 16 vague.
 17 MR. ROSENTHAL: Q. Do you understand the
 18 question?
 19 A. No, I do not. Can you rephrase the
 20 question?
 21 Q. When the teacher was teaching the class in
 22 Spanish and using the textbooks, there were not enough
 23 copies for each student to have their own; is that
 24 right?
 25 A. Correct.

1 Q. How did students follow the lesson the
 2 teacher was teaching when she was using the textbook
 3 then?
 4 MS. MAJD: Calls for speculation and it is
 5 vague.
 6 THE WITNESS: They shared books with other
 7 students.
 8 MR. ROSENTHAL: Q. Did you have to share a
 9 book with somebody in that class?
 10 A. Yes, I did.
 11 Q. Did that affect your ability to follow the
 12 lesson plan?
 13 MS. MAJD: Objection. Calls for
 14 speculation. Calls for -- that is it. Calls for
 15 speculation.
 16 THE WITNESS: Not to my knowledge, no.
 17 MR. ROSENTHAL: Q. Can you recall any
 18 instance when -- strike that.
 19 Were you assigned homework in your freshman
 20 year Spanish class?
 21 A. Yes.
 22 Q. And can you describe for me types of
 23 homework you received in that class?
 24 MS. MAJD: Vague.
 25 THE WITNESS: Can you clarify types of

1 homework, please?
 2 MR. ROSENTHAL: Sure.
 3 Q. Maybe you can give me an example of the kind
 4 of homework you would get in your freshman year Spanish
 5 class.
 6 A. Ms. Cusigch would give us handouts and she
 7 would tell us to copy things off the board onto a
 8 separate piece of paper.
 9 Q. Did you ever receive any homework in that
 10 class in which having the textbook at home was
 11 required?
 12 A. No.
 13 Q. Did you ever receive any homework in that
 14 class in which having the textbook at home would have
 15 been helpful?
 16 MS. MAJD: Objection. Vague and calls for
 17 speculation.
 18 THE WITNESS: Yes, the majority of the time
 19 she gave us homework out of the textbook, she would say
 20 -- or she would use her teacher's edition and, for
 21 example, turn to page 235 and she would write some
 22 things on the board and tell the class to take them
 23 down on a separate piece of paper and to do them at
 24 home.
 25 MR. ROSENTHAL: Q. And when you did that,

1 did you have all the information you needed at home to
 2 complete the homework?
 3 MS. MAJD: Objection. Calls for
 4 speculation. Vague.
 5 THE WITNESS: No.
 6 MR. ROSENTHAL: Q. Can you tell me what
 7 information you didn't have that you needed?
 8 MS. MAJD: Calls for speculation. How can
 9 he know what information he didn't have if he didn't
 10 have it?
 11 THE WITNESS: As far as writing certain
 12 phrases, we didn't have an example to look at to see
 13 how to write it out correctly because we did not have a
 14 book.
 15 MR. ROSENTHAL: Q. Can you pronounce for me
 16 the teacher's name again?
 17 A. Ms. Cusigch.
 18 Q. Cusigch. Okay. When Ms. Cusigch gave you
 19 handouts for homework, did she give copies to each
 20 student?
 21 MS. MAJD: Calls for speculation.
 22 THE WITNESS: Yes.
 23 MR. ROSENTHAL: Q. And students were able
 24 to take those copies home with them?
 25 A. Yes.

1 Q. At any point during your freshman year in
 2 connection with your Spanish class, did the number of
 3 textbooks available to the class change?
 4 MS. MAJD: Calls for speculation.
 5 THE WITNESS: I do not remember.
 6 MR. ROSENTHAL: Q. Do you remember whether
 7 students had to share textbooks for the entire school
 8 year that year?
 9 A. Yes.
 10 Q. Did they have to?
 11 A. Yes, they did.
 12 Q. Do you know whether Ms. Cusigch took any
 13 steps to obtain additional textbooks for that class?
 14 MS. MAJD: Calls for speculation.
 15 THE WITNESS: I do not know.
 16 MR. ROSENTHAL: Q. Did Ms. Cusigch ever
 17 make photocopies of the textbooks to give to students
 18 so they didn't need to share in class?
 19 MS. MAJD: Calls for speculation.
 20 THE WITNESS: Can you repeat, please?
 21 Sorry.
 22 MR. ROSENTHAL: Sure.
 23 Q. Since there was a shortage of textbooks in
 24 class, did Ms. Cusigch ever make copies of the pages
 25 she would be using in class so students could look on

1 with copies rather than having to share books in class?
 2 MS. MAJD: Same objection.
 3 THE WITNESS: There were a few instances.
 4 MR. ROSENTHAL: Q. Why don't we turn to
 5 your sophomore year Spanish class. Can you tell me who
 6 the teacher in that class was?
 7 A. Mr. Miller.
 8 Q. Is that the class we discussed earlier?
 9 A. Correct.
 10 Q. Do you recall how many students were in that
 11 class?
 12 A. From the first day of class until I can't
 13 remember, approximately 30 students, 30 to 35 students.
 14 Q. I apologize. Did you have something --
 15 MS. MAJD: I want to clarify there were
 16 several teachers in that class.
 17 MR. ROSENTHAL: Right.
 18 Q. That is the same class we spent some time on
 19 earlier today?
 20 A. Yes.
 21 Q. I'm going to apologize. I'm going back to
 22 your freshman year Spanish class for maybe one or two
 23 questions.
 24 A. Okay.
 25 Q. You said there were approximately 30 to 35

1 students in that class. Was that true for the entire
 2 school year?
 3 MS. MAJD: Calls for speculation.
 4 THE WITNESS: I do not remember.
 5 MR. ROSENTHAL: Q. Do you remember whether
 6 the number of students in the class increased or
 7 decreased at some point during the school year?
 8 A. From what I remember, a few students were no
 9 longer in the class because their parents were moving
 10 away, so I can say about two to three students had left
 11 the class, from what I remember.
 12 Q. How about in -- I recognize there are
 13 several teachers who taught the class, but I may refer
 14 to it as Mr. Miller's Spanish class, if that is okay
 15 with you.
 16 A. Okay.
 17 MS. MAJD: Okay.
 18 MR. ROSENTHAL: Q. In Mr. Miller's class,
 19 you said there were roughly 30 to 35 students. Did the
 20 number of students in that class change during the
 21 school year at all?
 22 MS. MAJD: Calls for speculation.
 23 THE WITNESS: From the extent I know of,
 24 they remained the same.
 25 MR. ROSENTHAL: Q. Do you remember how many

1 Miller had at the time also used the same textbooks.
 2 Q. Did all of these classes meet in the same
 3 classroom that Mr. Miller taught in?
 4 A. Yes.
 5 Q. So those books physically remained in that
 6 classroom at all times?
 7 MS. MAJD: Calls for speculation.
 8 THE WITNESS: Yeah.
 9 MR. ROSENTHAL: Q. Do you know whether Mr.
 10 Miller took any efforts to obtain additional textbooks
 11 for the class?
 12 A. I don't know.
 13 Q. Do you know whether any of the substitute
 14 teachers who came after Mr. Miller undertook any
 15 efforts to obtain additional books for the class?
 16 A. I don't know.
 17 Q. At any time during the -- during your
 18 sophomore year in Spanish class, did the number of
 19 books available to the class change?
 20 MS. MAJD: Calls for speculation.
 21 THE WITNESS: I cannot remember.
 22 MR. ROSENTHAL: Q. We spent some time
 23 talking about the -- whether or not some of the
 24 substitute teachers gave you homework in that class,
 25 but we didn't really talk about Mr. Miller. Did he

1 textbooks you had available in connection with that
 2 class?
 3 A. Roughly 25 also.
 4 Q. Do you remember the name of the book?
 5 A. Not to my knowledge, no.
 6 Q. Was it the same as the Bravo book or was it
 7 a different book?
 8 A. I believe it was Bravo also, but it was a
 9 more advanced version.
 10 Q. Were students able to take home the textbook
 11 in Mr. Miller's class?
 12 MS. MAJD: Calls for speculation.
 13 THE WITNESS: To the extent I thought of,
 14 no.
 15 MR. ROSENTHAL: Q. Did you ever take the
 16 textbook home in connection with that class?
 17 A. No.
 18 Q. Were these Spanish books that you used in
 19 Mr. Miller's class shared among the more than one
 20 Spanish class?
 21 MS. MAJD: Calls for speculation.
 22 THE WITNESS: Yes.
 23 MR. ROSENTHAL: Q. Do you recall how many
 24 classes shared those books?
 25 A. Approximately three other classes that Mr.

1 give homework in that class?
 2 A. Yes, he did.
 3 Q. Can you give me some examples of the type of
 4 homework he gave you?
 5 A. Similar to Ms. Cusigch, he photocopied
 6 homework and writing things on the board and telling us
 7 to write it down on a separate piece of paper.
 8 Q. And when Mr. Miller made -- gave the class
 9 handouts and made copies, did he give each student a
 10 copy of what he handed out?
 11 MS. MAJD: Calls for speculation.
 12 THE WITNESS: Yes.
 13 MR. ROSENTHAL: Q. And students were able
 14 to take those home with them?
 15 MS. MAJD: Calls for speculation.
 16 THE WITNESS: Yes.
 17 MR. ROSENTHAL: Q. Were there any instances
 18 in that class in which having the textbook was needed
 19 to do your homework?
 20 MS. MAJD: Vague. Calls for speculation.
 21 THE WITNESS: Not that I can remember.
 22 MR. ROSENTHAL: Q. Because there was a
 23 shortage of textbooks in Mr. Miller's class when he was
 24 using the books to instruct the class, did students
 25 share books -- did students share books in class?

1 MS. MAJD: Calls for speculation.
 2 THE WITNESS: Yes.
 3 MR. ROSENTHAL: Q. Did you ever share a
 4 book in Mr. Miller's class?
 5 A. Yes.
 6 Q. And when you shared a book, were you able to
 7 follow the lesson he was teaching?
 8 MS. MAJD: Objection. Vague and calls for
 9 speculation.
 10 THE WITNESS: Sometimes I was, but sometimes
 11 I couldn't because if I had to share a book with
 12 someone who worked at a slower pace than I did, I had
 13 to wait for that person to catch up.
 14 MR. ROSENTHAL: Q. About how often would
 15 that happen?
 16 A. Rarely.
 17 Q. When you say, "Rarely," can you give me an
 18 estimate how frequently in a given month it would
 19 happen or over the entire semester?
 20 A. In a month, I would say perhaps three times,
 21 four times.
 22 Q. During a given -- let's try it this way: In
 23 roughly how many times a week would you personally have
 24 to share a textbook in Mr. Miller's class?
 25 A. It varied. Sometimes none; sometimes once,

1 twice. It varied from week to week.
 2 Q. Why don't we turn to your advanced algebra
 3 class during your junior year -- sorry. Let me ask a
 4 few more questions about your sophomore year Spanish
 5 class.
 6 You've given me some testimony about
 7 students sharing textbooks. Did the same practice
 8 continue when Mr. Robinson and the other substitute
 9 teachers taught your Spanish class?
 10 A. Well, I cannot say as far as Mr. Robinson,
 11 but with the other substitutes, since they did not make
 12 an effort to teach us the material, we did not even use
 13 the textbooks. But with Mr. Robinson, it continued,
 14 yes, we had to share textbooks.
 15 Q. When Mr. Robinson taught the class, you did
 16 use the textbooks?
 17 A. For the most part, yes, but we had to share.
 18 MR. ROSENTHAL: Okay. Now we can move on to
 19 your advanced algebra.
 20 Actually, if we want to go off here for
 21 lunch, that would be fine.
 22 (Recess taken.)
 23 MR. ROSENTHAL: Q. Mr. Lewis, before our
 24 lunch break, we were discussing some of your classes in
 25 which you had a shortage of textbooks and I believe

1 we're up to your advanced algebra class during your
 2 junior year. Now, you had testified about this class
 3 earlier today in a different context. I want to make
 4 sure you are discussing the same advanced algebra
 5 class.
 6 A. Yes.
 7 Q. Do you recall how many students were in that
 8 class?
 9 A. Approximately 25 to 30.
 10 Q. Did that number change during the school
 11 year?
 12 MS. MAJD: Calls for speculation.
 13 THE WITNESS: I do not remember.
 14 MR. ROSENTHAL: Q. And do you remember how
 15 many textbooks you had available to use in that class?
 16 MS. MAJD: Calls for speculation.
 17 THE WITNESS: Roughly 20 to 25.
 18 MR. ROSENTHAL: Q. Do you recall the name
 19 of that textbook?
 20 A. No, I do not.
 21 Q. Did the number of textbooks available for
 22 use in that class change during the school year?
 23 MS. MAJD: Calls for speculation.
 24 THE WITNESS: Yes.
 25 MR. ROSENTHAL: Q. Can you tell me how that

1 number changed?
 2 A. It decreased.
 3 Q. Do you know why the number decreased?
 4 A. No.
 5 Q. Do you know how many -- strike that.
 6 Do you know when the decrease in the number
 7 of books available occurred?
 8 A. During the transferring from [REDACTED]
 9 to [REDACTED], so from December to -- yeah, December
 10 2000 to January 2001.
 11 Q. Do you recall how many textbooks were
 12 available in the -- in [REDACTED] class?
 13 MS. MAJD: Calls for speculation.
 14 THE WITNESS: I would say roughly 15 to --
 15 15 were available.
 16 MR. ROSENTHAL: Q. And did that number
 17 change during the remainder of the school year?
 18 MS. MAJD: Calls for speculation.
 19 THE WITNESS: I do not remember.
 20 MR. ROSENTHAL: Q. Do you remember the --
 21 strike that.
 22 During roughly the first half of your junior
 23 year when [REDACTED] was your teacher, were you able
 24 to take those textbooks home with you?
 25 MS. MAJD: Calls for speculation.

1 THE WITNESS: Not all of the students, no.
 2 MR. ROSENTHAL: Q. Were some students
 3 permitted to take the books home with them?
 4 A. Yes.
 5 Q. Do you recall how [REDACTED] decided who
 6 was able to take a book home and who was not?
 7 MS. MAJD: Calls for speculation.
 8 THE WITNESS: No.
 9 MR. ROSENTHAL: Q. Did you take books home
 10 with you in connection with that class?
 11 A. Yes.
 12 Q. Did you take the book home every day with
 13 you?
 14 A. No.
 15 Q. Can you tell me approximately how many times
 16 a week you would take the book home with you?
 17 A. Approximately two to three times.
 18 Q. Why would you take the book home with you?
 19 A. Because he would assign homework and he
 20 would allow me and other students to take the books
 21 home.
 22 Q. Was the book required to do the homework?
 23 MS. MAJD: Objection. Calls for expert
 24 testimony. Calls for speculation. It is vague.
 25 THE WITNESS: I do not know.

1 MR. ROSENTHAL: Q. Can you describe for me
 2 the types of homework that [REDACTED] gave you?
 3 A. For some of the students, it was book work.
 4 For the students that didn't have the books, he would
 5 make photocopies of the pages from the book and staple
 6 them together in a packet and give it to those students
 7 that did not have a book.
 8 Q. So on the occasions when you did not take
 9 your textbook home with you to do homework, were you
 10 provided with photocopies of the pages from which the
 11 homework was assigned?
 12 A. Yes.
 13 Q. Do you know whether all students received --
 14 all students who did not take the book home with them
 15 received copies of those pages?
 16 MS. MAJD: Calls for speculation.
 17 THE WITNESS: Not that I can remember.
 18 MR. ROSENTHAL: Q. Do you remember any
 19 instance in which you were not provided with either a
 20 textbook or copies of the pages from which you were
 21 assigned homework in connection with that class?
 22 A. I believe there were a few instances when
 23 the copy machine was not working and there were not
 24 enough books to go around for me to take home, so I had
 25 to get the problems from the board and write on a

1 separate piece of paper.
 2 Q. Do you recall how many times roughly that
 3 that occurred?
 4 MS. MAJD: This is just still the first half
 5 of the year?
 6 MR. ROSENTHAL: Right.
 7 MS. MAJD: Okay.
 8 MR. ROSENTHAL: We're just dealing with [REDACTED].
 9 [REDACTED] class.
 10 THE WITNESS: Roughly between five to ten
 11 times.
 12 MR. ROSENTHAL: Q. Was that over the entire
 13 semester?
 14 A. From the time period I was in his class,
 15 yes.
 16 Q. Earlier, in connection with your Spanish
 17 class, you testified that the books that were available
 18 to the class were shared by other Spanish classes. Was
 19 that the case with respect to the advanced algebra
 20 textbooks as well?
 21 MS. MAJD: Calls for speculation.
 22 MR. ROSENTHAL: Q. To the extent you know.
 23 A. I don't know.
 24 Q. When [REDACTED] was using the book in
 25 class to instruct the class in advanced algebra, can

1 you tell me what steps he took to ensure that students
 2 could follow along with the lesson?
 3 MS. MAJD: Calls for speculation and assumes
 4 facts not in evidence.
 5 THE WITNESS: From what I remember, he would
 6 explain it and then he would stop every few sentences
 7 and ask the class, "Do you guys understand or did I
 8 lose you at any point?"
 9 MR. ROSENTHAL: Q. Did students share books
 10 during class in the advanced algebra class?
 11 MS. MAJD: Calls for speculation.
 12 THE WITNESS: Yes.
 13 MR. ROSENTHAL: Q. Did you ever share a
 14 book in the advanced algebra class?
 15 A. Yes.
 16 Q. About how often would you have to share a
 17 book in that class?
 18 A. On a weekly basis, perhaps two to three
 19 times a week.
 20 Q. And on the roughly two to three other days
 21 of the week, would you have your own copy?
 22 A. Yes.
 23 Q. When you shared a book, were you able to
 24 follow along with [REDACTED] lesson?
 25 MS. MAJD: Vague.

1 THE WITNESS: Depending on the student who I
2 had to share the book with. Some students worked at a
3 slower pace than I did, so I had to wait for them to
4 catch up.

5 MR. ROSENTHAL: Q. Do you recall
6 approximately how often that would occur?

7 A. I would approximately say once or twice a
8 week.

9 Q. Moving forward in time in connection with
10 that advanced algebra class when you had [REDACTED] as
11 a teacher, we'll try to deal with it together, if we
12 can, [REDACTED] and Mr. Yuen. If there is a
13 distinction we need to make, if you could let me know,
14 but I'll deal with the rest of the school year
15 together, if I can.

16 MS. MAJD: Do you understand that?

17 THE WITNESS: No, sorry, I do not understand
18 that.

19 MR. ROSENTHAL: Q. Did you meet in the same
20 classroom with [REDACTED] and Mr. Yuen?

21 A. Yes.

22 Q. Did you have the same textbooks for that
23 entire time period?

24 A. For those who had them, yes.

25 Q. And during when [REDACTED] was your teacher

1 MR. ROSENTHAL: Q. Did you -- strike that.
2 Did the books that were used in [REDACTED]
3 class come from [REDACTED] class?

4 A. Yeah.

5 MS. MAJD: Calls for speculation.

6 MR. ROSENTHAL: Q. Do you know why the
7 total number of books that [REDACTED] had in his
8 class were not taken to [REDACTED] class?

9 MS. MAJD: Calls for speculation.

10 THE WITNESS: No, I do not.

11 MR. ROSENTHAL: Q. You said that some
12 students -- the students who had books were able to
13 take the books home with them when [REDACTED] and Mr.
14 Yuen were your teachers. Did you personally have a
15 book?

16 MS. MAJD: He actually only said [REDACTED]

17 [REDACTED] class.

18 MR. ROSENTHAL: I'm sorry. We can deal with
19 it separately. To the extent we can, we'll do it
20 together. I was trying to move it along. Let's take
21 it separately to make sure the record is clear.

22 THE WITNESS: Sorry.

23 MR. ROSENTHAL: Let's focus on when [REDACTED]

24 [REDACTED] was your teacher.

25 THE WITNESS: When I transferred from [REDACTED]

1 and Mr. Yuen was your teacher, you had the same -- the
2 class was using the same textbooks?

3 A. Same name and everything.

4 Q. Same physical textbooks?

5 A. Yes.

6 Q. Do you understand the question?

7 A. Yes, I do.

8 Q. Okay.

9 MS. MAJD: So if any question he asks you,
10 if there was a different answer when you had [REDACTED]
11 as opposed to when you had Mr. Yuen, let him know when
12 there is a difference. If it is the same, you can
13 answer all together.

14 THE WITNESS: Okay.

15 MR. ROSENTHAL: Thank you.

16 Q. During that time frame when [REDACTED] and
17 Mr. Yuen were your teachers, were you able to take the
18 textbooks home with you?

19 MS. MAJD: Calls for speculation.

20 THE WITNESS: When we transferred into [REDACTED]
21 [REDACTED] class, the students were able to take the
22 books, the student that had books, from [REDACTED]
23 class to [REDACTED] class and we were able to take
24 those home, but for the students who did not have
25 books, obviously they were not able to take books home.

1 [REDACTED] to [REDACTED] I was able to, yes, have my
2 own personal book to take home and bring to school
3 whenever I needed for the rest of the year and that was
4 approximately from the time I had [REDACTED] in January
5 2001 until June 2001.

6 MR. ROSENTHAL: Q. That covers the entire
7 period when [REDACTED] was your teacher and Mr. Yuen
8 was your teacher?

9 A. Correct.

10 Q. You said there were a number of students who
11 did not have copies of the textbook when [REDACTED] was
12 the teacher; is that correct?

13 A. Correct.

14 Q. Were those students provided with
15 photocopies of the textbook to take home with them?

16 MS. MAJD: Calls for speculation.

17 MR. ROSENTHAL: To the extent you know.

18 MS. MAJD: Vague as to if you are talking
19 about the entire textbook or just excerpts.

20 THE WITNESS: To the extent I know, yes, but
21 they were sometimes of poor quality.

22 MR. ROSENTHAL: Q. Were they given copies
23 of the entire textbook or were they given copies of
24 excerpts of a textbook?

25 A. Excerpts.

1 Q. Were they given a copy of the excerpts that
 2 were being taught at that time?
 3 A. Yes.
 4 Q. Did all students in [REDACTED] class have
 5 either a copy of the actual textbook or copies of the
 6 excerpts that were being taught in class?
 7 MS. MAJD: Calls for speculation.
 8 MR. ROSENTHAL: Q. To the extent you know.
 9 A. Yes.
 10 Q. Was that also true during the time Mr. Yuen
 11 was the teacher?
 12 A. Yes.
 13 Q. Did students share books during class time
 14 in [REDACTED] class?
 15 MS. MAJD: Calls for speculation.
 16 THE WITNESS: Yes.
 17 MR. ROSENTHAL: Q. Was that also true
 18 during the time Mr. Yuen was the teacher?
 19 A. To the extent I know, yes.
 20 Q. Did you share your textbook with another
 21 student when [REDACTED] was a teacher?
 22 A. Yes, the students that did not have
 23 textbooks and needed help with them, I would let them
 24 share the book with me, yes.
 25 Q. Did you share with them every day when [REDACTED]

1 [REDACTED] was the teacher?
 2 A. Yes.
 3 Q. How about when Mr. Yuen was the teacher, did
 4 you share with another student every day?
 5 A. No.
 6 Q. Can you tell me how frequently you shared
 7 your textbook with another student when Mr. Yuen was
 8 the teacher?
 9 MS. MAJD: Assumes facts that he was only
 10 sharing with one other student.
 11 THE WITNESS: From the extent I know,
 12 perhaps two to three times a week.
 13 MR. ROSENTHAL: Q. Did you ever share your
 14 textbook with more than one student?
 15 A. Yes.
 16 Q. Do you recall how many times that occurred?
 17 A. With [REDACTED], since I shared a book with
 18 students every day, sometimes it would be the same
 19 student for two days or sometimes it would vary and be
 20 a different student.
 21 Q. Did you ever share your textbook with more
 22 than one student at a time?
 23 A. More than one student at a time, not that I
 24 can remember, no.
 25 Q. I'm going to ask you to take a look at what

1 we've marked as Exhibit 1, which is your transcript.
 2 And I'm going to ask you to look at one semester at a
 3 time beginning with the fall of 1998, which is the
 4 first semester that is referenced here. Perhaps it is
 5 easiest if you can tell me the courses you took during
 6 that semester. I know they are referenced here, but
 7 some of them are abbreviated so it is -- perhaps it is
 8 easier if you could tell me the courses you took and
 9 feel free to look at the transcript to the extent it
 10 helps you remember.
 11 Can I ask you one other question before you
 12 answer? Were the classes you took during the 1998/99
 13 school year, were those year-long classes or were they
 14 semester classes?
 15 MS. MAJD: Vague.
 16 THE WITNESS: To the extent I know, they
 17 were year-long, but they were broken into two separate
 18 semesters.
 19 MR. ROSENTHAL: Okay.
 20 MS. MAJD: Was it true for all of the
 21 classes?
 22 MR. ROSENTHAL: It appears there is an
 23 exception here, so it is probably best we do it
 24 semester by semester. Let's try it that way.
 25 Q. Let's start with the fall of 1998, tell me

1 what classes you took during that semester.
 2 A. Ethnic expository literature, composition 1,
 3 geography 1, math exploration, integrated science 1,
 4 art 1, art 2, and algebra 1.
 5 Q. Great. Can you tell me out of those eight
 6 classes you've listed in which of those classes you
 7 used a textbook?
 8 MS. MAJD: Objection. Vague.
 9 MR. ROSENTHAL: Q. Do you understand the
 10 question?
 11 A. No. Can you rephrase it, please?
 12 Q. I'm trying to figure out in which of the
 13 eight classes you took during that semester in which a
 14 textbook was used either in class or for homework.
 15 A. To the extent I know -- to the extent I
 16 know, algebra 1, geography 1 and that is all I can
 17 remember.
 18 Q. Do you remember what kinds of materials were
 19 used in your ethnic expository literature class?
 20 MS. MAJD: Vague as to "Materials."
 21 MR. ROSENTHAL: Q. Do you understand the
 22 question?
 23 A. No. Can you rephrase it?
 24 Q. Sure. I'm trying to find out if you used
 25 any books in connection with learning the substance of

1 that subject.
 2 A. No, I believe we used handouts and the
 3 overhead projector.
 4 Q. How about for composition 1, did you use any
 5 textbooks or other books in connection with that class?
 6 A. Not that I can remember.
 7 Q. Do you remember what kind of materials you
 8 used in that class to learn the subject matter?
 9 MS. MAJD: Vague.
 10 THE WITNESS: No, I don't.
 11 MR. ROSENTHAL: Q. How about the math
 12 class, do you remember what kind of materials you used
 13 to learn -- I'm sorry, the math exploration class, do
 14 you remember what kind of materials you used to learn
 15 that subject?
 16 MS. MAJD: Vague.
 17 THE WITNESS: No, I don't remember.
 18 MR. ROSENTHAL: Q. What about integrated
 19 science, do you remember what kind of materials were
 20 used in connection with that class?
 21 MS. MAJD: Same objection.
 22 THE WITNESS: No.
 23 MR. ROSENTHAL: Q. And do you remember
 24 using any books in connection with either of the art
 25 classes that you took during that semester?

1 A. There were no books she used for art.
 2 Q. Okay. Why don't we look at the spring of
 3 1999 and if you can tell me what courses you took
 4 during that semester.
 5 A. Ethnic expository literature 2, composition
 6 2, geography 2, people of the US, integrated science 2,
 7 Spanish 1 and 2 and algebra 2.
 8 Q. Great. Do you recall using textbooks in
 9 connection with any of those classes?
 10 A. From what I can remember, my algebra 2
 11 class, my Spanish 1 and 2 class, and I believe the
 12 people of the US, to the extent that I remember.
 13 Q. Moving on to the fall of 1999, if you can
 14 tell me the names of -- why don't we try it this way:
 15 Why don't you tell me the names of the classes you took
 16 that semester and as you do that, you can let me know
 17 if you had a textbook you used in connection with that
 18 class. Is that okay?
 19 MS. MAJD: That is fine. I'm a little
 20 unclear if you are talking about whether he physically
 21 had his own textbook or --
 22 MR. ROSENTHAL: Let me try to clarify the
 23 question.
 24 Q. I'm wondering whether a textbook was used in
 25 connection with that class to instruct the class. I'm

1 not asking whether you personally had your own or
 2 anything like that, just whether a textbook was used by
 3 anybody in the class.
 4 A. World literature 1.
 5 Q. And as you name each one, if you could let
 6 me know whether you used a textbook in connection with
 7 that class or not.
 8 A. I do not remember for world literature 1;
 9 modern world 1 and yes, sometimes we did use books when
 10 it pertained to what we needed to study. Geometry 1,
 11 yes, there was a geometry book. Spanish 3, yes, there
 12 was a book. Student aide, no book needed. Biology 1,
 13 yes, there was a book.
 14 Q. Why don't we move to the spring semester of
 15 2000.
 16 A. World literature 2, I do not remember.
 17 Modern world 2, yes, when it pertained to what we
 18 needed to study. Geometry 2, yes; Spanish 4, yes;
 19 student aide, no book needed; biology 2, yes.
 20 Q. Moving forward to the next semester which
 21 was the fall semester of 2000 which would have been
 22 your junior year, if you could tell me what courses you
 23 took then and whether textbooks were used in connection
 24 with those classes.
 25 A. American literature 1, I cannot recall; US

1 history 1, yes; prelaw, I need to explain my prelaw
 2 class. It was -- we did not use a textbook, but there
 3 was another type of book which we used and did work out
 4 of and had homework assignments from.
 5 Q. Okay.
 6 A. Advanced algebra 1, yes, there was a book;
 7 physical education, no; chemistry 1, yes, and CSF
 8 member, no book was needed.
 9 Q. Can you tell me what CSF member is referring
 10 to?
 11 A. It is referring to the California
 12 Scholarship Federation.
 13 Q. Can you tell me what that organization is?
 14 A. It is not an actual class. It is more of an
 15 honors society.
 16 Q. In your role -- were you a member of the
 17 California Scholarship Federation?
 18 A. Yes.
 19 Q. Did you meet on a daily basis with other
 20 students who were also members?
 21 A. No.
 22 Q. Did you meet on any kind of regular basis
 23 during that semester with other members of the
 24 Federation?
 25 A. We had a few, approximately, I would say,

1 one meeting per semester with the group and the person
2 in charge of the organization.

3 Q. So in your mind, it wasn't a regular class
4 at Balboa?

5 A. No, it is not a class.

6 Q. Moving forward to the spring of 2001, if you
7 can, again, do the same thing, let me know the names of
8 the classes you took during that semester and whether
9 or not a textbook or other book was used in connection
10 with those classes.

11 A. American literature 2, I cannot recall; US
12 history 2, yes; prelaw, there was no specific textbook,
13 but there was another type of book which we do work out
14 of and were assigned homework; advanced algebra 2, yes;
15 physical education 2, no; chemistry 2, yes; and in
16 college prep 1, no.

17 Q. I see that there are a couple of additional
18 items during this past summer. It appears that you
19 took a driver's education course during this past
20 summer; is that correct?

21 A. Correct.

22 Q. Was there any kind of book used in
23 connection with that class?

24 A. Not a formal textbook, but a small pamphlet.

25 Q. And I see there is one other reference

1 MR. ROSENTHAL: Q. Other than your biology
2 class during your sophomore year, do you recall there
3 being any other shortages of any kind of textbooks you
4 used in connection with the classes you identified?

5 MS. MAJD: Do you understand the two
6 different types of shortages we're talking about?

7 THE WITNESS: Shortages regarding the
8 students having a class set.

9 MS. MAJD: Q. Right, either there being one
10 class set that your class would share with other
11 classes or not enough books in your class for every
12 student in that class.

13 A. And these are classes we have not discussed
14 already?

15 Q. Right, putting aside the ones we've already
16 discussed.

17 A. No, that is it.

18 Q. You said there was a shortage of some kind
19 of biology textbooks in your -- during your sophomore
20 year. Can you tell me what kind of shortage of books
21 there was in that class?

22 A. Well, it didn't start out that way. We were
23 all -- I don't want to say class set, but each student
24 had their book. Each student was assigned a book and
25 the majority of the work we would do was in-class work,

1 during the summer of 2001. Can you tell me what that
2 additional entry is referring to?

3 A. Are you talking about the last --

4 Q. Right, the last thing on the page.

5 A. That was referring to my summer internship
6 which gave school credit for -- during the summer for
7 school career project, if you want to call it that.

8 Q. That was for the internship at the law firm
9 you identified earlier today?

10 A. Correct.

11 Q. You identified a number of classes in which
12 textbooks were used over your four-year career at
13 Balboa and we've talked about the classes where you
14 recall there being a shortage of textbooks. In
15 connection with any of the other classes you identified
16 as classes in which textbooks were used, were there any
17 shortages of textbooks in those classes?

18 MS. MAJD: Vague and calls for speculation.
19 By "Shortage" do you mean if there was a class set
20 shared by other classes or do you mean if there wasn't
21 enough for each student in each class?

22 MR. ROSENTHAL: I'll include both of those
23 items.

24 THE WITNESS: That I can remember, for my
25 biology class sophomore year.

1 so there was no need, really, to take the book home,
2 but on a very rare occasion, we would have some
3 assignments to do out of the book where we needed to
4 take a book home and every student would have a copy of
5 the book to take home, but -- and then I don't know how
6 this happened, but there seemed to be a shortage, so
7 the students were not allowed to take books home no
8 more and the teacher said that they have to remain in
9 class because there was a shortage.

10 MR. ROSENTHAL: Q. Do you remember when
11 that shortage developed during the school year?

12 A. I cannot recall.

13 Q. Did you ever hear why a shortage developed?

14 A. No.

15 Q. Did you ever hear that one or more students
16 lost their biology book during that year?

17 MS. MAJD: Objection. Asked and answered.

18 THE WITNESS: No, not that I can remember.

19 MR. ROSENTHAL: Q. Again, referring to the
20 classes that you identified in which a book was -- a
21 textbook was being used, putting aside the classes
22 we've already discussed in detail and focusing on the
23 remaining classes, were all the students in those
24 classes -- did each of the students have their own copy
25 of the book to use in class?

1 MS. MAJD: Calls for speculation and,
 2 Antonio, is it easier for you to do it this way where
 3 he is asking about all classes at once or do you want
 4 to go through each semester?
 5 THE WITNESS: We can talk about all classes
 6 at once.
 7 MS. MAJD: Okay.
 8 MR. ROSENTHAL: Q. Do you understand the
 9 question or do you want me to repeat it?
 10 A. Can you repeat it, please? Sorry.
 11 Q. Sure. Putting aside the classes we've
 12 discussed in which there was a shortage, we've spent
 13 some time discussing the details of with respect to the
 14 remaining classes which you've identified in which a
 15 textbook was used, did all students have their own copy
 16 of the book that was being used to use in class?
 17 MS. MAJD: Calls for speculation.
 18 THE WITNESS: Regarding biology, to my
 19 knowledge, yes.
 20 MR. ROSENTHAL: Q. So for all the other
 21 classes, students had their own copy of the books to
 22 use in class?
 23 MS. MAJD: It misstates his testimony.
 24 THE WITNESS: Excuse me, can you repeat the
 25 question? I'm sorry.

1 MR. ROSENTHAL: Sure.
 2 Q. You've -- we've discussed your Spanish class
 3 during your freshman year and your sophomore year and
 4 your advanced algebra class in your junior year. We've
 5 discussed shortages of textbooks in connection with
 6 those classes and you've also identified a shortage of
 7 books that developed in your biology class during your
 8 sophomore year. With respect to the remaining classes
 9 you identified in which textbooks were used, did all
 10 students, to your knowledge, have copies -- have their
 11 own copy of the books to use in class?
 12 A. Yes, regarding to my prelaw class, each
 13 student was given their own personal copy. I don't
 14 want to call it a pamphlet, but you can say it was a
 15 type of textbook that we did work out of, homework out
 16 of. We were given that to keep beyond the year.
 17 Q. How about the other classes you identified?
 18 I can go through it class by class if that is easier.
 19 Do you prefer to do it that way?
 20 A. Sure.
 21 Q. I'll try to run through them as quickly as I
 22 can. If you can let me know if all students had copies
 23 of the textbook that was used in that class to use in
 24 class.
 25 A. Okay.

1 Q. Why don't we start with geography 1?
 2 MS. MAJD: I'm going to make a standing
 3 objection that this calls for speculation.
 4 MR. ROSENTHAL: Fine. So the record is
 5 clear, I'm only asking each of these questions to the
 6 extent you know.
 7 Q. With respect to geography 1, did all
 8 students have copies of the textbook to use in class?
 9 A. To the extent I know, I don't know.
 10 Q. Did you have your own copy of the geography
 11 1, the textbook you used in geography 1?
 12 A. I cannot remember.
 13 Q. Okay. How about algebra 1, during your
 14 freshman year, did all students have their own copies
 15 of the books to use in class?
 16 A. To the extent I know, I cannot remember.
 17 Q. Did you have your own copy of the book you
 18 used in algebra 1?
 19 A. Yes, I did.
 20 Q. Were you able to take that book home with
 21 you?
 22 A. I cannot remember.
 23 Q. How about with respect to the people of the
 24 US class, did all students in that class have their own
 25 copy of the textbook to use in class?

1 A. I cannot remember.
 2 Q. Why don't we try it this way: Do you
 3 remember of the classes that you've identified in which
 4 textbooks were used, and, again, putting aside the
 5 shortages we've discussed, do you recall any other
 6 instances in which students in those classes did not
 7 have their own copy of the books to use in class?
 8 MS. MAJD: Michael, I'm not trying to be
 9 difficult. He has already said it is easier for him to
 10 go through semester by semester or class by class, so
 11 can we do it that way?
 12 MR. ROSENTHAL: I would like an answer to
 13 the question.
 14 THE WITNESS: Can you repeat it, please?
 15 MR. ROSENTHAL: Sure. If the answer is he
 16 doesn't recall any instances, it would be simpler this
 17 way, I think.
 18 Q. Do you recall any instances in which
 19 students did not have their own copies of the textbooks
 20 to use in class other than the ones you've identified?
 21 A. I cannot recall.
 22 Q. Okay.
 23 MS. MAJD: Would it help you to recall if
 24 you went through semester by semester and looked at
 25 each class?

1 THE WITNESS: Yes.
 2 MR. ROSENTHAL: Q. Why don't you take a
 3 moment and look at your transcript and let me know if
 4 there were any other classes, based on looking at your
 5 transcript, in which students did not have copies of
 6 their own textbook for use in class?
 7 MS. MAJD: To the extent you know and take
 8 as much time as you need, so do you want -- here, I'll
 9 give you a piece of paper. If you remember a class
 10 where that was the case, you can write it down.
 11 THE WITNESS: Okay.
 12 MS. MAJD: Go through each semester by
 13 semester by semester.
 14 MR. ROSENTHAL: Why don't we go off for a
 15 minute while he does this, if that is okay.
 16 MS. MAJD: Yes. Thank you.
 17 (Recess taken.)
 18 MR. ROSENTHAL: Q. Mr. Lewis, have you had
 19 an opportunity to review your transcript?
 20 A. Yes.
 21 Q. And after reviewing it, do you recall any
 22 other classes that you haven't already identified in
 23 which students in those classes did not have a copy of
 24 the textbook that was used -- had their own copy of the
 25 textbook that was used for use in class?

1 MS. MAJD: Calls for speculation and I think
 2 it is a little unclear to Mr. Lewis exactly what you
 3 are asking him.
 4 THE WITNESS: Can you rephrase that, please?
 5 MR. ROSENTHAL: Sure.
 6 Q. I asked you to take a look at your
 7 transcript to see if there were any other classes that
 8 you remembered where students did not have their own
 9 copy of the textbook to use in class. Were there any
 10 other classes that you remember where that was the case
 11 after reviewing your transcript?
 12 A. After reviewing, no, I don't recall any more
 13 classes.
 14 MS. MAJD: Is that no, you did not recall?
 15 Is that what you said?
 16 THE WITNESS: No, I did not recall any other
 17 classes.
 18 MR. ROSENTHAL: Q. Other than the classes
 19 we've talked about already, do you recall any other
 20 classes in which students did not have their own copies
 21 of the textbook to take home with them?
 22 MS. MAJD: Calls for speculation. I'll also
 23 ask to, if it is helpful, to look through the
 24 transcript again --
 25 MR. ROSENTHAL: That is fine.

1 MS. MAJD: -- if you need to.
 2 THE WITNESS: No, I don't remember.
 3 MR. ROSENTHAL: Q. Just so the record is
 4 clear, you don't remember any other classes in which
 5 students did not have a copy of the textbook to take
 6 home with them?
 7 A. Correct.
 8 Q. Okay. Thank you. Now, there are a number
 9 of classes in which -- strike that.
 10 Were there some classes in which -- were
 11 there some classes you took at Balboa in which a
 12 textbook was not used in class?
 13 MS. MAJD: Objection. Vague.
 14 THE WITNESS: That I can recall, I cannot
 15 really remember.
 16 MR. ROSENTHAL: Q. I'm not asking for
 17 specific classes. I'm just wondering if there were any
 18 classes in which a textbook wasn't used.
 19 Let me try a different question: Do you
 20 remember a class in which materials other than
 21 textbooks were used to instruct you in the subject
 22 matter?
 23 MS. MAJD: Vague.
 24 THE WITNESS: Regarding all my four years?
 25 MR. ROSENTHAL: Q. Right. Over the entire

1 four years, do you remember classes like that in which
 2 materials other than textbooks were used to instruct
 3 you in the subject matter of the class?
 4 MS. MAJD: Vague. Calls for speculation.
 5 THE WITNESS: That I can remember, art 1 and
 6 2, there was no book needed for that class. Physical
 7 education, there is no book needed, student aide, CSF
 8 member, college prep. And that is all I can remember
 9 at the moment.
 10 Q. How about for integrated science during your
 11 freshman year, do you remember using materials other
 12 than the textbook? I think you said you did not use a
 13 textbook for that class. Did you use other materials
 14 in that class?
 15 MS. MAJD: Vague.
 16 THE WITNESS: Not that I can remember, no.
 17 MR. ROSENTHAL: Q. In the classes in which
 18 you used materials other than textbooks -- strike that.
 19 Do you recall there being any shortages of
 20 other materials aside from textbooks in any of the
 21 classes you took at Balboa over your four years there?
 22 MS. MAJD: Objection. Vague. Calls for
 23 speculation. Lack of foundation.
 24 THE WITNESS: Regarding my physical
 25 education class, even now there seems to be a lack of

1 basketballs and things like that.
 2 MR. ROSENTHAL: Q. Any other classes in
 3 which there was a shortage of materials aside from
 4 physical education?
 5 MS. MAJD: Same objections.
 6 THE WITNESS: That I can remember, no.
 7 MR. ROSENTHAL: Q. Do you remember using
 8 handouts in classes at Balboa?
 9 MS. MAJD: Objection. Vague.
 10 THE WITNESS: Yes, but I cannot remember the
 11 specific classes.
 12 MR. ROSENTHAL: Q. Did you use handouts in
 13 most of your classes at Balboa?
 14 MS. MAJD: Objection. Vague.
 15 THE WITNESS: To the extent that I know of,
 16 no.
 17 MR. ROSENTHAL: Q. Other than textbooks,
 18 did you use any other books in connection with any of
 19 your classes at Balboa?
 20 A. Other than textbooks?
 21 Q. Right.
 22 MS. MAJD: Vague as to "Textbooks."
 23 MR. ROSENTHAL: Q. Do you understand the
 24 distinction I'm making?
 25 A. Are you referring to textbooks compared to

1 experiments?
 2 MS. MAJD: Vague.
 3 MR. ROSENTHAL: Q. Do you understand the
 4 question?
 5 A. Yes.
 6 Q. Is the answer to the question --
 7 A. Yes.
 8 Q. Thank you. Do you recall there ever being
 9 any shortage of the materials you needed to conduct
 10 those experiments?
 11 MS. MAJD: Objection. Vague. Calls for
 12 speculation. Calls for expert testimony. Vague.
 13 THE WITNESS: That I can remember, there was
 14 a shortage of goggles for the chemistry lab a few
 15 times.
 16 MR. ROSENTHAL: Q. Any other shortages of
 17 materials used to conduct those experiments?
 18 A. No.
 19 Q. Do you recall how often there was a shortage
 20 of goggles?
 21 A. If was fairly often.
 22 Q. Do you recall how many goggles the class was
 23 short?
 24 MS. MAJD: Calls for speculation.
 25 THE WITNESS: Approximately three to five.

1 novels or things along that line?
 2 Q. Right.
 3 A. You asked me if we -- also we have used
 4 novels and other outside like library type of books.
 5 Q. With respect to those books, the
 6 non-textbook books that you used, do you recall there
 7 being any shortages of those books at any time during
 8 your four years at Balboa?
 9 MS. MAJD: Objection. Vague. Calls for
 10 speculation.
 11 THE WITNESS: That I can recall, no.
 12 MR. ROSENTHAL: Q. Over your four years at
 13 Balboa, did you do any experiments in connection with
 14 your science classes?
 15 MS. MAJD: Objection. Vague.
 16 MR. ROSENTHAL: Q. Do you understand the
 17 question?
 18 A. No.
 19 Q. Did you do any lab work in connection with
 20 any of the science classes you took at Balboa?
 21 MS. MAJD: Vague.
 22 THE WITNESS: My chemistry class, we had
 23 weekly lab reports my junior year, excuse me.
 24 MR. ROSENTHAL: Q. In connection with
 25 preparing those lab reports, did you conduct

1 MR. ROSENTHAL: Q. And how did -- strike
 2 that.
 3 Did students share the goggles as a result
 4 of the shortage?
 5 A. No, instead of sharing, some students did
 6 not partake in doing the lab reports or they did not
 7 put on goggles at all. If you wore glasses, you didn't
 8 need goggles.
 9 Q. Were there any instances in which you did
 10 not have the use of goggles in conducting the
 11 experiments?
 12 A. Me personally?
 13 Q. You personally.
 14 A. No.
 15 Q. Just so I'm clear, are there any additional
 16 instances of shortages of any materials used in
 17 connection with instructing a class at Balboa that you
 18 haven't already told me about?
 19 MS. MAJD: Objection. Vague as to
 20 "Shortages." Vague as to "Materials." Overbroad. Are
 21 you talking about all classes at Balboa or the classes
 22 he took? Calls for speculation.
 23 MR. ROSENTHAL: Q. Do you understand my
 24 question?
 25 A. Not really, no.

1 Q. We've been spending some time on identifying
2 shortages of textbooks, novels, lab materials, handouts
3 and things like that. And you've identified --

4 A. There was never a shortage of novels.

5 Q. Okay. We've been talking about the number
6 of textbooks, novels, other books, handouts, lab
7 materials that was available for you to use over your
8 four years at Balboa and you've identified for me some
9 instances in which there weren't enough of those kind
10 of materials. Are there any other instances that you
11 can recall, as you sit here today, that you haven't
12 already told me about?

13 MS. MAJD: Same objections.

14 THE WITNESS: That I can recall, no.

15 MR. ROSENTHAL: Q. Have you ever heard of
16 any of the other shortages in classes that other
17 students have taken that you did not take?

18 MS. MAJD: Same objections, except calls for
19 speculation.

20 THE WITNESS: I don't know.

21 MR. ROSENTHAL: Q. Are you aware of any
22 classes at Balboa in which there were no textbooks
23 available in the class in which a textbook was intended
24 to be used?

25 MS. MAJD: Objection. Calls for

1 democracy, everyone has a copy of a textbook. Physical
2 education, there is not one needed. English/European
3 lit, we have a set of textbooks, but we rarely use it
4 unless it pertains to what we're doing. Emergency
5 service training, there was going to be textbooks, but
6 we're not going to get any in; and for health ed, there
7 is a set of textbooks which we use in class because of
8 the work we do. It doesn't really require for us to
9 take textbooks home.

10 Q. Just so the record is clear, with respect to
11 the five classes you identified in which there are
12 textbooks used, those classes being AP English,
13 American democracy -- I'm sorry, four classes,
14 English/European literature and health ed, do all
15 students have their own copies of the textbooks to use
16 in class?

17 A. Yes.

18 Q. Are students able to take those textbooks
19 home with them on a daily basis for each of those four
20 classes?

21 MS. MAJD: Calls for speculation.

22 MR. ROSENTHAL: Q. To the extent you know.

23 A. For AP English, each student was assigned a
24 book to bring to class and take home every day as well
25 as for American democracy. English/European lit, we

1 speculation.

2 THE WITNESS: Oh, currently this year, my
3 emergency service training class which is taught by a
4 San Francisco lieutenant, I believe he is a police
5 officer, and at the beginning of the year, he said that
6 we would do some work regarding to group activities and
7 also, there would be a textbook and recently I asked, I
8 would say, roughly, about a few weeks, three weeks to a
9 month ago, some of the students asked him when is the
10 textbook going to come in and he said, "Oh, they
11 couldn't get the money for it, so we're not going to
12 use a textbook."

13 MR. ROSENTHAL: Q. I'll have some follow-up
14 questions to ask you about that, but I meant to also
15 ask you if you could tell me what classes you are
16 taking currently this year.

17 A. Currently I have advanced placement English,
18 AP English; American Democracy, physical education,
19 English/European literature, emergency service training
20 and health education.

21 Q. Can you tell me for which classes that you
22 are taking this semester that textbooks are being used
23 in connection with the class?

24 A. AP English, everyone has their own copy of a
25 textbook for that class. Also with the American

1 usually don't take the books home at all, but when we
2 do, everyone gets a copy of a book. And for health ed,
3 we never have to take the books home, only use them in
4 class and everyone has a copy of the book.

5 Q. Do you know why you don't take your health
6 textbooks home?

7 A. The type of work we do is more we do a lot
8 of classwork and testing, quizzes, and not as much
9 homework.

10 Q. Do you know whether you are able to take the
11 health textbook home if you wanted to?

12 A. Yes, I actually took it home one time
13 because I had to do a project so -- and it related to
14 the book, so she let me check out a book.

15 Q. You said -- can you tell me again who
16 teaches the emergency service training class?

17 A. Mr. Leech, Lieutenant Leech.

18 Q. And you said he was a San Francisco Police
19 Officer?

20 A. I believe so, yeah.

21 Q. Can you tell me what you are learning in
22 that class just generally?

23 A. I'm learning the basic things you need in
24 order to get into the field of law enforcement and our
25 rights as human beings that we have and the laws in

1 society.

2 Q. And you said that at some point earlier in
3 the year, you were told that there would be a textbook
4 that would be used and then you subsequently learned
5 that the textbooks would not be provided. Can you tell
6 me what your understanding was as to why that is the
7 case?

8 A. At the beginning of the year, he gave us a
9 syllabus which outlined what we do for the year and he
10 basically told us what we would learn and he said we'll
11 be working out of a textbook, he said, on the syllabus,
12 but like after a month or so in the class, many of the
13 students asked Mr. -- Lieutenant Leech when was the
14 textbooks going to come to class and he would always
15 tell us that he was working on it. He was trying to
16 get some and then we found out that recently, as to
17 three weeks to a month ago, that there will be no
18 textbooks used for the year.

19 Q. And do you know why no textbooks will be
20 used?

21 A. No, I do not.

22 Q. Did anybody give you a reason as to why
23 textbooks would not be provided in that class?

24 A. No.

25 MS. MAJD: Asked and answered.

1 we've marked as Exhibit No. 1, which is your
2 transcript. I want to fill in some of the gaps that
3 appear to be missing from the transcript. If you look
4 at the 2000/2001 school year, for the most part, most
5 of the teacher designations appear to be blank. If you
6 could let me know who your teachers were for the
7 courses in which "None" is listed, I would appreciate
8 that.

9 A. For American literature 1, the teacher was
10 Mr. Bond. For US History 1, as well as prelaw, the
11 teacher was Ms. Safir. For physical education 1, the
12 teacher was Mr. Gray. For chemistry 1, the teacher was
13 Mr. Hansen. And the person who was in charge for the
14 CSF Federation is Ms. Howard.

15 Q. And if you can continue into the spring of
16 2001, I imagine --

17 A. Yeah, American literature is also Mr. Bond.

18 Q. Okay.

19 A. US History 2 and prelaw is Ms. Safir.
20 Physical education 2 is Mr. Gray and chemistry 2 is Mr.
21 Hansen.

22 Q. Great. Can you just keep Exhibit 1 in front
23 of you for one more moment?

24 A. I'm sorry.

25 Q. I know you've looked at it a couple times

1 MR. ROSENTHAL: Q. Okay. Did you ever hear
2 it was because of a shortage of money?

3 A. I was never told, no.

4 Q. What kinds of materials are you using in
5 that class since you are not using a textbook?

6 MS. MAJD: Objection. Assumes facts not in
7 evidence.

8 THE WITNESS: In that class, he always has
9 different type of handouts prepared for us and we do a
10 lot of group activity and he has a penal code police
11 book, I believe it is called, and we do like different
12 exercises from that that he only has and he quizzes us
13 on that sometimes.

14 MR. ROSENTHAL: Q. When Lieutenant Leech
15 gives the class handouts, does he give copies for each
16 student?

17 MS. MAJD: Calls for speculation.

18 MR. ROSENTHAL: Q. To the extent you know.

19 A. Yes, everyone has a copy.

20 Q. Are students able to take those copies home
21 with them, to the extent you know?

22 A. We never generally get homework for that
23 class. It is usually classwork. After we finish with
24 the handout, we turn them back in to him.

25 Q. I'm going to ask you to briefly look at what

1 now. To the extent you need to look at it in detail, I
2 want you to look it over and let me know if there are
3 any inaccuracies contained in this transcript.

4 A. Okay.

5 MS. MAJD: Vague.

6 MR. ROSENTHAL: Q. Do you understand what
7 I'm asking you to do?

8 A. If anything is not correct.

9 MR. ROSENTHAL: Right.

10 (Recess taken.)

11 MR. ROSENTHAL: Q. Have you had an
12 opportunity to review your transcript?

13 A. Yes.

14 Q. And did you find anything on the transcript
15 that appears to you to be inaccurate?

16 A. Two things, the first thing is from the
17 second page where units completed is [REDACTED] where it is
18 now supposed to be [REDACTED] as stated on the first page,
19 and spring 2000 for student aide absences has seven,
20 but I believe it was more of three, maybe four maximum.

21 Q. Okay.

22 A. Other than that, everything else looks fine.

23 Q. I'm going to ask you to look at page 2
24 quickly of the transcript and you'll see there is, a
25 little bit down the page, it says, "High school grad

1 requirements." Do you have an understanding as to what
2 that is referring to?

3 A. High school grad requirements?

4 Q. It is on the left side of the page about an
5 inch or two down.

6 A. Oh, yes.

7 Q. Do you have an understanding as to what that
8 is referring to?

9 A. Yes.

10 Q. Can you tell me what it is referring to?

11 A. It is referring to the amount of credit you
12 need for each of these specific things in order to meet
13 the high school or Balboa High School's graduation
14 requirements.

15 Q. Okay. Thank you. Okay. You can put that
16 aside for now. Can you describe for me generally the
17 physical condition of the books you used at Balboa
18 other the four years you were a student there?

19 MS. MAJD: Objection. Vague and overbroad.
20 Calls for speculation.

21 THE WITNESS: To the extent I know, all the
22 books were in pretty fair condition except my junior
23 year, my advanced algebra book that I had, it was in
24 poor condition.

25 MR. ROSENTHAL: Q. Can you describe for me

1 THE WITNESS: No, the teacher just said
2 share a book with someone who had the pages.

3 MR. ROSENTHAL: Q. And when those instances
4 happened, did you look on with somebody who had the
5 relevant page?

6 A. Yes.

7 Q. Do you remember any instances when you were
8 not able to do that?

9 A. No, I don't.

10 Q. Did the teacher ever make copies of the
11 pages that you were missing from your book?

12 MS. MAJD: Calls for speculation.

13 THE WITNESS: From the extent I know of, no.

14 MR. ROSENTHAL: Q. You said that one of
15 the -- that some of the textbooks in the advanced
16 algebra class had the front cover ripped off. Can you
17 estimate how many copies of the books were -- had the
18 front cover ripped off?

19 MS. MAJD: Calls for speculation.

20 THE WITNESS: Approximately, I would say
21 five to six books had the front cover ripped off.

22 MR. ROSENTHAL: Q. How many of the advanced
23 algebra books were missing pages?

24 MS. MAJD: Calls for speculation.

25 MR. ROSENTHAL: Q. To the extent you know.

1 the condition of -- strike that.

2 Are you referring to your specific book you
3 used in advanced algebra or are you referring to all
4 the books used by the class?

5 MS. MAJD: Calls for speculation.

6 THE WITNESS: Overall from the majority of
7 the books used in the class, they were in pretty poor
8 condition as well as mine.

9 MR. ROSENTHAL: Q. Can you describe for me
10 what you mean when you say those books were in poor
11 condition?

12 A. Yes, some of the students, the books they
13 were given or assigned, the front cover was ripped off
14 and many students, including myself, pages were ripped
15 out, so it made it difficult to do assignments when the
16 teacher would assign those pages and they were ripped
17 out of your book.

18 Q. Did the teacher do anything to -- strike
19 that.

20 When the teacher was instructing the class
21 on material from the textbook where you were missing
22 those pages from the textbook, did the teacher do
23 anything to assist you in following the lesson?

24 MS. MAJD: Calls for speculation and is
25 vague.

1 A. Approximately, maybe seven to eight.

2 Q. Were there any books that were used in
3 advanced algebra that were in better than poor
4 condition?

5 MS. MAJD: Objection. Vague. Calls for
6 speculation.

7 MR. ROSENTHAL: Q. To the extent you know.

8 A. To the extent I know, there were perhaps two
9 to three books that were in very good condition.

10 Q. Were there any advanced algebra textbooks
11 used in your class that were in fair condition?

12 MS. MAJD: Vague. Calls for speculation.

13 MR. ROSENTHAL: Q. Do you understand what I
14 mean by "Fair condition"?

15 A. No, can you --

16 Q. I mean something better than poor condition,
17 but perhaps not as good as very good condition.

18 A. Okay. To the extent I know of, no, there
19 weren't any fair condition books.

20 Q. Other than the advanced algebra textbooks
21 you've identified, were there any other books you used
22 during your four years at Balboa that were in poor
23 condition?

24 MS. MAJD: Vague and calls for speculation.

25 THE WITNESS: To the extent I know of, no.

1 MR. ROSENTHAL: Q. Did you ever hear of any
2 other students using books at Balboa that were in poor
3 condition other than the advanced algebra textbooks
4 we've talked about?

5 MS. MAJD: Vague.

6 THE WITNESS: No.

7 MR. ROSENTHAL: Q. Do you have an opinion
8 as to whether the textbooks being used at Balboa -- the
9 textbook you used at Balboa over the four years you
10 were there as to whether those textbooks were up to
11 date?

12 MS. MAJD: Objection. Vague. Calls for
13 speculation, expert testimony, and overbroad.

14 MR. ROSENTHAL: Q. Do you understand the
15 question?

16 A. No, not really, sorry.

17 Q. Okay. Do you -- did you have any concerns
18 about any of the textbooks you were using at Balboa at
19 any time? Did you have any concerns those books were
20 outdated?

21 MS. MAJD: Same objection.

22 MR. ROSENTHAL: Q. Do you understand the
23 question?

24 A. To the extent I know of, currently my
25 American democracy class seems as if the presidents

1 MR. ROSENTHAL: Q. Do you have to pay any
2 fees in connection with the art classes you took at
3 Balboa?

4 MS. MAJD: Vague as to "Fees."

5 THE WITNESS: No.

6 MR. ROSENTHAL: Q. Did you understand what
7 I was referring to when I used the word "Fees"?

8 A. Money.

9 Q. Right. Can you tell me generally as to the
10 overall condition of the physical structures that make
11 up Balboa High School?

12 MS. MAJD: Objection. Vague. Calls for
13 speculation. Overbroad.

14 MR. ROSENTHAL: Q. Do you understand the
15 question?

16 A. I don't know what you mean by "Physical
17 structures."

18 Q. I'm talking about the buildings that make up
19 the school, both the exterior, the interior, the
20 infrastructure of the school. Do you understand what
21 I'm referring to?

22 A. Yes.

23 Q. Okay. Can you just tell me generally what
24 your opinion is as to the condition of those items?

25 MS. MAJD: Vague. Overbroad and calls for

1 that they are talking about go only up until 1988 when
2 George Bush, Senior was president.

3 Q. Any other -- did you have any other concerns
4 about any other books you used at Balboa over your four
5 years that were outdated?

6 MS. MAJD: Same objections.

7 MR. ROSENTHAL: Q. Do you understand the
8 question?

9 A. Yes. No; other than that, no.

10 Q. Have you ever had to pay any fees in
11 connection with getting your education at Balboa High
12 School?

13 MS. MAJD: Objection. Vague.

14 THE WITNESS: No.

15 MR. ROSENTHAL: Q. Have you ever heard of
16 any other students having to pay any fees in connection
17 with receiving an education at Balboa High School?

18 MS. MAJD: Vague.

19 THE WITNESS: No.

20 MR. ROSENTHAL: Q. Have you ever heard that
21 any students had to pay a fee in connection with taking
22 an art class?

23 MS. MAJD: Same objection.

24 THE WITNESS: To the extent that I know of,
25 no.

1 speculation.

2 THE WITNESS: Regarding the outside of the
3 school, many students, including myself, at times feel
4 as if it is a prison because it is surrounded by --
5 like huge gates surround the entire school, front
6 entrance of the school.

7 As regards to inside of the school, the --
8 our main yard bathroom, our quad bathroom, is generally
9 not up to code.

10 MR. ROSENTHAL: Q. When you say the "Yard
11 bathroom is not up to code," can you tell me what you
12 mean by that?

13 A. Generally the bathroom is dirty or there is
14 sometimes no soap or paper towels or toilet paper at
15 times.

16 Q. We'll come back to bathrooms in a little
17 while. How about the other physical aspects of the
18 school? I can list a few of those to help you and I'm
19 talking about the walls, the ceiling, the roof, the
20 windows, the doors, the floors, those kinds of things.
21 Can you tell me generally what kind of condition those
22 are in at Balboa High School?

23 MS. MAJD: Objection. Compound. Calls for
24 speculation. Calls for expert testimony. Go ahead.

25 THE WITNESS: As far as my English/European

1 lit class, which, also, the same teacher taught my
2 American literature last year, one of the shades in the
3 middle window has been broken ever since last year and
4 it is still not fixed. And also last year, my junior
5 year, for my US History and prelaw class, which was in
6 the same room taught by the same teacher, her middle
7 shade was also broken, so when it was sunny outside, it
8 made it hard to learn because she would try to write
9 something on the projector and it was hard to see.

10 MR. ROSENTHAL: Q. Just so the record is
11 clear and hopefully alleviate some of your counsel's
12 objections, I'm going to break down that question so it
13 is no longer compound. Would you say the -- strike
14 that.

15 Can you describe for me the condition of the
16 doors at Balboa High School?

17 MS. MAJD: Objection. Vague and overbroad.

18 THE WITNESS: The condition of the doors for
19 the most part are fair to good condition.

20 MR. ROSENTHAL: Q. Can you describe for me
21 the condition of the windows at Balboa High School?

22 MS. MAJD: Same objection. Calls for
23 speculation.

24 THE WITNESS: They are also pretty fair
25 condition, except they are generally kind of dirty on

1 say a week or two.

2 Q. Did you ever tell anybody that there was
3 glass on the floor of the gym locker room?

4 A. Yeah.

5 Q. Do you recall who you told?

6 A. I recall I told my teacher, Mr. Gray,
7 because there was a lot of glass on the floor, so the
8 janitor, I believe, had come in and got the glass that
9 he could physically see and got it out.

10 Q. And do you recall when a janitor came to
11 remove the glass that was on the floor?

12 A. I don't recall, no.

13 Q. Do you recall how Mr. Gray responded to you
14 when you told him there was glass on the floor in the
15 gym locker room?

16 A. He came downstairs, because we're upstairs,
17 and he went inside and he saw the glass on the floor
18 and he asked me did I know what happened and I said no,
19 when I came down here, it was like this on the floor.
20 And he said okay, and he used his walkie-talkie and
21 called someone in the main office and said there is
22 glass in the boys' locker room and that is the last I
23 heard of it.

24 Q. Did you see somebody come down to remove the
25 glass on the floor?

1 the outside.

2 MR. ROSENTHAL: Q. Do you recall any
3 windows or doors being broken at Balboa over the four
4 years you were a student there?

5 MS. MAJD: Objection. Compound. Calls for
6 speculation.

7 THE WITNESS: I can remember one instance my
8 sophomore year where one of the windows to the door in
9 the hallway was cracked and also in the gym locker
10 room, there was a window or the door to the gym locker
11 room was broken and glass was on the floor.

12 MR. ROSENTHAL: Q. Do you know whether
13 the -- do you know whether those items were repaired?

14 MS. MAJD: Objection. Vague as to
15 "Repaired." Calls for speculation.

16 THE WITNESS: Yes, they were.

17 MR. ROSENTHAL: Q. Do you know how long it
18 took for those items to be repaired?

19 A. In regards to the hallway broken window, I
20 believe it took a few weeks to a month, three weeks to
21 about a month. And in regard to the gym locker room, I
22 cannot recall.

23 Q. How long do you remember there being glass
24 on the floor in the gym locker room?

25 A. That I can remember, I would approximately

1 A. No.

2 Q. Did you stick around to see if somebody was
3 going to come from the main office?

4 A. No.

5 Q. Other than those instances that you've just
6 mentioned, do you recall there being any other broken
7 windows at Balboa during the four years you spent
8 there?

9 A. Broken windows, no, but once there was glass
10 on the gym basketball court because the backboard had
11 been shattered and there was glass on the floor.

12 Q. Did that glass get cleaned up at some point?

13 A. Yes.

14 Q. Do you recall how quickly?

15 A. No, because it happened last year, my junior
16 year, and I had gym last period, so when it happened,
17 everyone just went home, so I don't remember.

18 Q. The next day when you came to class, was the
19 glass still there?

20 A. That I can remember, no, it was not.

21 Q. I just want to clarify something for the
22 record. I've been repeatedly saying "During your four
23 years at Balboa." You haven't spent an entire four
24 years at Balboa yet, have you?

25 A. No.

1 Q. Just for the record, when I mistakenly said
2 the four years you've spent, I meant the three full
3 years plus whatever you spent this year. I apologize
4 for that.
5 MS. MAJD: Thanks.
6 MR. ROSENTHAL: And if I mistakenly say four
7 years again, you'll know I'm referring to your
8 three-plus years. Feel free to correct me if I do
9 that. Now it is a habit of mine.
10 MS. MAJD: Okay.
11 MR. ROSENTHAL: Q. I've been taking you
12 through a list of some of the physical characteristics
13 of Balboa and I've asked you to describe for me the
14 condition of those and we covered the doors and
15 windows. Can you tell me generally the condition of
16 the floors at Balboa High School?
17 MS. MAJD: Objection. Vague. Calls for
18 speculation. Overbroad.
19 THE WITNESS: To the extent that I know of,
20 the floors are in fair condition.
21 MR. ROSENTHAL: Q. Do you remember during
22 your time at Balboa, have you had any concerns about
23 the condition of the floors at any time?
24 MS. MAJD: Objection. Vague.
25 THE WITNESS: No.

1 MR. ROSENTHAL: Q. How about the walls at
2 Balboa High School, can you describe for me the
3 condition of the walls at the school?
4 MS. MAJD: Calls for speculation. Vague.
5 Overbroad.
6 THE WITNESS: With regard to the walls, to
7 the extent I know of, they are in -- not poor
8 condition, poor to fair condition.
9 MR. ROSENTHAL: Q. Can you describe for me
10 what you mean by that?
11 A. Some walls in the school have like, say if
12 someone threw a soda or something and you have the
13 stain of the soda on the wall and some walls will be
14 clean. It varies from different parts of the school.
15 Q. Were any of the walls at Balboa High School
16 broken?
17 MS. MAJD: Vague. Calls for speculation.
18 MR. ROSENTHAL: Q. Do you understand what I
19 I'm asking?
20 A. To the extent I know of, no.
21 Q. When you say that some of the walls were in
22 poor to fair condition, are you referring only to the
23 cleanliness of the walls?
24 A. Yes.
25 Q. Would you say the walls at Balboa High

1 School are effective sound barriers?
2 MS. MAJD: Objection. Vague. Calls for
3 speculation.
4 THE WITNESS: I don't understand what you
5 mean.
6 MS. MAJD: Calls for expert testimony.
7 MR. ROSENTHAL: Q. Would you say the walls
8 at Balboa High School are effective at keeping noise
9 from outside of the classroom out of the class?
10 MS. MAJD: Same objections.
11 MR. ROSENTHAL: Q. Do you understand the
12 question?
13 A. Yes.
14 Q. Would you say the walls are effective at
15 doing that?
16 A. No, they are not effective.
17 Q. Can you describe for me what you mean when
18 you say they are not effective at doing that?
19 A. For example, this year in my AP English
20 class, fairly often when we are in class when we are
21 silent reading or writing during work the class, to our
22 right, I believe which is an ESL, English second
23 language class, when they are making noises or doing
24 presentations, we can like hear pretty much everything
25 that is going on with them yelling and screaming and

1 clapping and such, so it becomes a distraction.
2 Q. Other than hearing that class when they are
3 yelling and screaming, those kinds of things, do you
4 hear the class on other occasions as well?
5 A. Yes, sometimes when the teacher is speaking
6 to them, it is in a loud tone. We can hear him.
7 Q. Do you only hear that class when they are
8 making loud noise from that classroom?
9 MS. MAJD: Objection. Vague as to "Loud
10 noise" and calls for speculation.
11 THE WITNESS: To the extent I know of, the
12 class to our left is a Spanish class and we hear them
13 not as often as the ESL class, but at times, we can
14 hear them also.
15 MR. ROSENTHAL: Q. So do you hear noise
16 from those classes on a daily basis?
17 A. The Spanish class, no; the ESL class, yes,
18 pretty much daily basis, yes.
19 Q. Aside from your AP English class, are there
20 any other classes in which you believe the walls are
21 not effective sound barriers?
22 MS. MAJD: Same objection. Vague and calls
23 for speculation.
24 THE WITNESS: To the extent I know of, no.
25 MS. MAJD: Are we talking about all of his

1 time at --
 2 MR. ROSENTHAL: Yes.
 3 Q. Let me ask the question again so the record
 4 is clear. Over your four years at Balboa High School,
 5 do you remember any other occasions in which the walls
 6 were not effective sound barriers other than the AP
 7 English class you just told me about?
 8 MS. MAJD: Same objections.
 9 THE WITNESS: To the extent I know of,
 10 perhaps during one other occasion my sophomore year in
 11 my modern world class where it rarely happened, but
 12 there were instances where we could hear like someone
 13 pounding on the wall, beating noises from the class
 14 next to us.
 15 MR. ROSENTHAL: Q. Did you ever hear any
 16 other noises --
 17 MS. MAJD: Vague.
 18 MR. ROSENTHAL: Q. -- while in that class?
 19 A. That I can remember, no.
 20 Q. Were the walls in your AP English class
 21 different than the walls located in other parts of the
 22 school?
 23 MS. MAJD: Objection. Vague.
 24 MR. ROSENTHAL: Q. Do you understand what
 25 I'm asking?

1 A. Were the walls the same or are the walls
 2 different?
 3 Q. Right.
 4 A. To the extent I know of, the walls are the
 5 same.
 6 Q. Okay. Have you ever heard anybody else
 7 complain about hearing noise from outside the class --
 8 from outside their class in -- strike that. I'll try
 9 to ask a clearer question.
 10 Did you ever hear any complaints from
 11 anybody else that they could hear excessive noise in
 12 their classroom?
 13 MS. MAJD: Objection. Vague.
 14 THE WITNESS: That I can remember, no.
 15 MR. ROSENTHAL: Q. Again, we've been
 16 talking about some of the physical structures that make
 17 up Balboa High School. We've covered doors, windows,
 18 walls, floors. Can you describe generally the
 19 condition of the ceilings at Balboa?
 20 MS. MAJD: Objection. Vague. Calls for
 21 speculation.
 22 THE WITNESS: Ceilings for the most part or
 23 to the extent I know of, I would say are in fair
 24 condition.
 25 MS. MAJD: Again, can we get a time frame on

1 this?
 2 MR. ROSENTHAL: Q. Over your entire not
 3 quite four years at Balboa, would you say the condition
 4 of the ceilings were fair during the entire time?
 5 A. Yeah.
 6 Q. Do you recall any instances of any ceilings
 7 being damaged or broken in any way?
 8 MS. MAJD: Objection. Vague and calls for
 9 speculation.
 10 THE WITNESS: To the extent I know of,
 11 perhaps when it is really rainy out, sometimes like the
 12 water, you would walk inside, say, to the third floor
 13 and water would just drop from the ceiling to the
 14 floor.
 15 MR. ROSENTHAL: Q. Did that occur in a
 16 particular part of the school?
 17 MS. MAJD: Calls for speculation.
 18 THE WITNESS: Yes.
 19 MR. ROSENTHAL: Q. Can you tell me in what
 20 part of the school there has been water leaking through
 21 the ceiling?
 22 MS. MAJD: Calls for speculation.
 23 THE WITNESS: To the extent I know of, it
 24 happened during when it rains on the third floor, just
 25 the right wing of the school, that I know of.

1 MR. ROSENTHAL: Q. But how often have you
 2 seen water leaking from the ceiling?
 3 A. Whenever it rains. Whenever it rains and I
 4 have a class on the third floor, it is like a little
 5 walkway or bridge that we have to walk through to get
 6 to the third floor and generally when you walk through
 7 the door, you can see the water, like physically see
 8 the water just dropping down on to the actual floor.
 9 Q. Does it leak only in the walkway connecting
 10 the building or does it leak elsewhere?
 11 MS. MAJD: Calls for speculation.
 12 MR. ROSENTHAL: Q. To the extent you know.
 13 MS. MAJD: I think it misstates testimony.
 14 I might not have been clear. Were you referring to the
 15 walkway as where the leaks occur or inside?
 16 THE WITNESS: Inside in the actual hallway
 17 floor.
 18 MR. ROSENTHAL: Q. Is the walkway an
 19 outdoor walkway?
 20 A. Yeah.
 21 Q. Okay. So if you could tell me where the
 22 leaking occurs, then. Does it occur in the hallway in
 23 the right wing of the school?
 24 A. Yes.
 25 Q. Is there any leaking in any of the

1 classrooms at the school?
 2 MS. MAJD: Calls for speculation.
 3 MR. ROSENTHAL: Q. To the extent you know.
 4 A. To the extent I know of, no.
 5 Q. Can you describe for me the amount of
 6 leaking in the hallway you see on the occasions when it
 7 rains?
 8 MS. MAJD: Vague.
 9 THE WITNESS: To the extent I know of, it is
 10 fairly minimal.
 11 MR. ROSENTHAL: Q. Does anybody do anything
 12 about that leak, to the extent you know?
 13 MS. MAJD: Vague.
 14 THE WITNESS: To the extent I know, the
 15 janitor tries to clean it up, but when it rains, it is
 16 just going to continue to happen, so the janitor may
 17 clean it up and leave. When he comes back, it is going
 18 to be there still because it is continually raining.
 19 MR. ROSENTHAL: Q. Do you know whether
 20 anybody has taken any steps to repair the leak?
 21 MS. MAJD: Objection. Vague.
 22 THE WITNESS: To the extent I know of, no, I
 23 don't know.
 24 MR. ROSENTHAL: Q. Any other leaks or
 25 damaged ceilings at Balboa?

1 MS. MAJD: Calls for speculation.
 2 THE WITNESS: To the extent I know of, no.
 3 MS. MAJD: It is compound.
 4 MR. ROSENTHAL: Q. How about the roof at
 5 Balboa, can you describe for me generally the condition
 6 of the roof at the school?
 7 MS. MAJD: Calls for speculation. Vague.
 8 THE WITNESS: No, I cannot remember.
 9 MR. ROSENTHAL: Q. Have you noticed the
 10 roof being damaged or broken at all since the time
 11 you've been attending Balboa?
 12 MS. MAJD: Vague. Calls for speculation.
 13 THE WITNESS: To my knowledge, no.
 14 MR. ROSENTHAL: Why don't we turn our
 15 attention to the bathrooms at Balboa High School. And
 16 before we do that, can we go off the record for a
 17 minute?
 18 MS. MAJD: Sure.
 19 (Recess taken.)
 20 MR. ROSENTHAL: Q. Mr. Lewis, before our
 21 brief break, we were just about to turn our attention
 22 to the bathrooms at Balboa High School. Do you know
 23 how many bathrooms there are at the school?
 24 A. Let's see, to my knowledge, there are
 25 several bathrooms, not counting the teachers'

1 bathrooms.
 2 Q. Is there some way you can estimate how many
 3 student bathrooms there are throughout the entire
 4 school?
 5 A. Student bathrooms, I believe there are
 6 several.
 7 Q. Is there a number you can assign to it or --
 8 A. Let's see, two on third, two on second, one
 9 on the first, one in the yard, and one in the basement,
 10 yeah. I think that is it.
 11 Q. And just so I'm clear, was that about seven
 12 you named?
 13 A. Yeah.
 14 Q. Okay. Are those seven bathrooms for boys or
 15 does that include bathrooms for women as well?
 16 A. Includes women's bathrooms.
 17 Q. Is seven just your best estimate or are you
 18 sure that is the total number at the school?
 19 A. That is my best estimate.
 20 Q. Okay. Do you know what the breakdown is
 21 between male and female bathrooms out of those seven?
 22 A. To the best of my knowledge, four to three
 23 male.
 24 Q. Do you have an opinion as to whether the
 25 number of bathrooms at Balboa High School is sufficient

1 for the student population at Balboa?
 2 MS. MAJD: Objection. Vague. Calls for
 3 speculation. Calls for a legal conclusion.
 4 MR. ROSENTHAL: Q. Do you understand the
 5 question?
 6 A. Can you rephrase the question, please?
 7 Q. Sure. I'm trying to figure out whether you
 8 think there are enough bathrooms for students to use at
 9 Balboa High School. Do you have an opinion as to
 10 whether there are?
 11 MS. MAJD: Same objection.
 12 THE WITNESS: Over my four years or
 13 currently?
 14 MR. ROSENTHAL: Q. Let me ask you this:
 15 Has the number of bathrooms available at Balboa changed
 16 during the time you've been there?
 17 A. No, but the student population has.
 18 Q. Okay. Why don't we start with currently and
 19 we can deal with the remainder of the time you were at
 20 the school. Do you think there are enough bathrooms
 21 for students to use at the school currently?
 22 MS. MAJD: Same objection.
 23 THE WITNESS: To my knowledge, yes.
 24 MR. ROSENTHAL: Q. How about prior to this
 25 year?

1 MS. MAJD: Same objections.
 2 THE WITNESS: Prior to this year, no.
 3 MR. ROSENTHAL: Q. And what is the basis
 4 for saying that in your opinion, there weren't enough
 5 bathrooms for students to use during years prior to the
 6 current one?
 7 A. Prior to this year, the student population
 8 was a lot higher than it currently is.
 9 Q. Are you aware of the current student
 10 population at Balboa?
 11 MS. MAJD: Vague.
 12 THE WITNESS: Roughly I would say between
 13 800 to, perhaps, 900 students.
 14 MR. ROSENTHAL: Q. And prior to this year,
 15 do you know approximately how many students attended
 16 Balboa?
 17 A. In years past?
 18 MS. MAJD: Michael, it could have changed.
 19 MR. ROSENTHAL: That is fine. We can deal
 20 with it year by year, if you want.
 21 Q. Over the three years prior to this year, can
 22 you describe for me the student population at Balboa as
 23 far as the number?
 24 MS. MAJD: Calls for speculation.
 25 THE WITNESS: I believe my first -- my

1 been open for students to use?
 2 MS. MAJD: Calls for speculation. Vague.
 3 THE WITNESS: No.
 4 MR. ROSENTHAL: Q. Were there periods of
 5 time when one or more of the bathrooms were not
 6 available for students to use?
 7 MS. MAJD: Calls for speculation.
 8 THE WITNESS: My freshman year and sophomore
 9 year, generally all of the male bathrooms were open
 10 except the basement bathroom, which is never open
 11 during all my years, even currently now. The same with
 12 my sophomore year, but my junior year and currently
 13 this year, the only bathrooms for males that remain
 14 open all the time is the one bathroom, only one
 15 bathroom, which is the yard bathroom.
 16 MR. ROSENTHAL: Q. Just so I'm clear, the
 17 male bathroom that is located in the bathroom, was that
 18 never opened during the entire time you've been at
 19 Balboa?
 20 MS. MAJD: You said the male bathroom in the
 21 bathroom.
 22 MR. ROSENTHAL: Did I? I'm sorry.
 23 Q. The male bathroom in the basement --
 24 A. Yes.
 25 Q. -- has that bathroom been closed the entire

1 freshman year, fall of '98/'99, the student population
 2 was about perhaps 1,100. '99 to 2000, I believe it was
 3 1,200. 2000 to 2001, I believe the population went to
 4 something less than 1,000, let's say maybe 9 -- around
 5 900.
 6 MR. ROSENTHAL: Q. During any of those
 7 three years, did you feel that the number of bathrooms
 8 at Balboa was sufficient to serve the student
 9 population of the school?
 10 MS. MAJD: Vague. Calls for a legal
 11 conclusion. Calls for speculation.
 12 MR. ROSENTHAL: Q. Do you understand the
 13 question?
 14 A. No. Can you rephrase it, please?
 15 Q. You said you believe currently there are
 16 enough bathrooms at the school for the students at
 17 Balboa. Is that the case during any of the prior three
 18 years you attended Balboa?
 19 MS. MAJD: Same objections.
 20 THE WITNESS: No.
 21 MR. ROSENTHAL: Q. For each of the three
 22 years, you thought there were not enough bathrooms?
 23 A. Yes.
 24 Q. During your entire time at Balboa High
 25 School, have the seven bathrooms you've identified all

1 time you've been at Balboa?
 2 A. To my knowledge, yes.
 3 Q. So when we -- strike that.
 4 During your junior year and during your
 5 senior year, have you had access to bathrooms other
 6 than the bathroom that is located in the yard?
 7 MS. MAJD: Calls for speculation. Vague.
 8 THE WITNESS: Well, my junior and senior
 9 year, yes, we have access, but we can't go there when
 10 we want to because at the beginning of last year, my
 11 junior year, a new policy was implemented where if the
 12 male or females wanted to use the bathrooms on the
 13 third, second floor, first floor for the females, they
 14 had to be escorted by a security guard because they
 15 were always locked.
 16 MR. ROSENTHAL: Q. And if students were
 17 escorted by a security guard to use those bathrooms,
 18 would the security guard unlock the bathroom and allow
 19 the student to use them?
 20 MS. MAJD: Calls for speculation.
 21 MR. ROSENTHAL: Q. To the extent you know.
 22 A. Yes, he would.
 23 Q. And throughout the school day, the bathroom
 24 in the yard was always open for students to use?
 25 MS. MAJD: Vague as to time. Calls for

1 speculation.

2 THE WITNESS: The bathroom in the yard was
3 always open for the boys to use, yes, during school
4 hours.

5 MR. ROSENTHAL: Q. Is that true during all
6 the time you spent at Balboa?

7 A. To the extent that I know of, yes.

8 Q. Was there a girls' bathroom that was open at
9 all times for female students to use?

10 MS. MAJD: Calls for speculation. Vague as
11 to time.

12 THE WITNESS: To the extent I know of, I
13 don't know.

14 MR. ROSENTHAL: Q. Is there a girls'
15 bathroom located in the yard at the school?

16 MS. MAJD: Calls for speculation.

17 THE WITNESS: No, it is located -- because
18 their bathroom is on the first floor, it is actually
19 inside the building and our first floor equivalent to
20 theirs is like kind of outside on the yard.

21 MR. ROSENTHAL: Q. Have you ever had to
22 wait in line at Balboa to use the bathroom?

23 MS. MAJD: Objection. Vague --

24 THE WITNESS: Yes.

25 MS. MAJD: -- as to time.

1 A. That I can recall, no.

2 Q. Do you ever remember any occasion in which
3 you could not use the bathroom at all because you had
4 to wait in line too long?

5 A. That I can remember, there were perhaps a
6 few instances where the line was too long at lunch and
7 I really had to go to the bathroom, so I would go and
8 tell security or someone to let me in because I really
9 had to use it and they would let me inside the building
10 because at lunchtime, you cannot get inside the
11 building without a pass.

12 Q. And in those instances, were you able to use
13 one of the bathrooms inside the building?

14 A. Sometimes they let me in.

15 Q. Were there instances in which you were not
16 able to do that?

17 A. Yes, I cannot recall when or the amount of
18 times when I was not allowed.

19 Q. Did that happen pretty rarely?

20 A. Yeah, it rarely happened.

21 Q. Just so I'm clear, you've identified boys'
22 bathrooms in the yard, one on the second floor, one on
23 the third floor; is that correct?

24 A. Yeah, and the one in the basement.

25 Q. And the one in the basement, which was never

1 MR. ROSENTHAL: Q. About how often has that
2 happened?

3 A. It happens less now due to the decreased
4 amount of student population, but in my freshman to a
5 little bit in my sophomore year, it happened fairly
6 often, especially during lunchtime.

7 Q. When you say, "Fairly often," is there some
8 way you can estimate for me how many times a week you
9 would have to wait in line to use the bathroom?

10 A. Perhaps three times a week.

11 Q. Can you estimate for me roughly how long you
12 would have to wait to use the bathroom on those
13 occasions?

14 A. Approximately ten minutes, perhaps.

15 Q. Do you recall roughly how long the lines
16 were to use the bathroom, how many people were ahead of
17 you?

18 MS. MAJD: Calls for speculation. Also
19 vague as to time.

20 THE WITNESS: On a given day, roughly, I
21 would say between five to seven students ahead of me,
22 perhaps.

23 MR. ROSENTHAL: Q. Do you recall having to
24 wait in line to use the bathroom during times other
25 than lunch period?

1 opened during your time at Balboa?

2 A. Correct.

3 Q. Do you know how many stalls there are
4 located in the yard bathroom?

5 A. The yard bathroom, there are two stalls and
6 there is one where you have the door to close if you
7 want to go in and use the bathroom and that is it.

8 Q. Just so I'm clear, when you say there were
9 two stalls, are you referring to two urinals?

10 A. Yeah, two urinals. Sorry.

11 Q. And one stall where you could close the
12 door?

13 A. Yeah.

14 Q. And there was a toilet?

15 A. Yeah.

16 Q. How about the bathroom on the second floor,
17 if you could tell me how many urinals and how many
18 toilets there were.

19 A. Let's see, you --

20 MS. MAJD: Calls for speculation.

21 THE WITNESS: To the extent I know of, there
22 was just three stalls, I believe.

23 MR. ROSENTHAL: Q. Again, so I'm clear,
24 when you say, "Stalls," are you referring to urinals?

25 A. No, with the actual door.

1 Q. So it was three toilet stalls?

2 A. Yeah, toilet stalls.

3 Q. Are there any urinals located in that
4 bathroom?

5 A. To the extent I know of, no.

6 Q. How about on the third floor, can you tell
7 me how many urinals or toilets are located in that
8 bathroom?

9 A. No, because I never used the third floor
10 bathroom in a really long time, so I don't know.

11 Q. Do you ever remember any occasions at Balboa
12 where any of the toilets were broken?

13 MS. MAJD: Objection. Vague as to "Broken."
14 Calls for speculation.

15 MR. ROSENTHAL: Q. Do you understand the
16 question?

17 A. Do I remember any times when the toilets
18 were not working properly?

19 Q. Right.

20 A. Yeah, I can remember a few instances where
21 there was, perhaps, overflowing and the handle was
22 fixed, but when you would try to flush like the water
23 and everything else would come up and it wouldn't go
24 down, so it was broken.

25 Q. Do you remember approximately the total

1 MR. ROSENTHAL: Q. Do you recall there
2 being any broken toilets in any of the other boys'
3 bathrooms?

4 MS. MAJD: Calls for speculation. Compound.

5 THE WITNESS: To the extent I know of, the
6 boys' third floor bathroom my sophomore year, I
7 remember an instance or two where the toilet was
8 broken.

9 MR. ROSENTHAL: Q. Do you recall whether
10 those toilets were repaired?

11 A. Yes, but I don't know specifically how long
12 did it take, perhaps a week or so.

13 Q. Do you remember any of those toilets being
14 broken for longer than a week?

15 MS. MAJD: Calls for speculation.

16 THE WITNESS: To the extent I know of, no.

17 MR. ROSENTHAL: Q. Do you remember any of
18 the urinals in any of the boys' bathrooms being broken
19 at any time during your years at Balboa?

20 MS. MAJD: Calls for speculation.

21 THE WITNESS: To the extent I know of, no.

22 MR. ROSENTHAL: Q. How about any of the
23 sinks in the bathroom, do you remember any of the sinks
24 not functioning properly in any of the bathrooms during
25 your time at Balboa?

1 number of times that you recall the toilets at Balboa
2 not functioning properly?

3 A. Approximate number of times?

4 MS. MAJD: Over all years?

5 MR. ROSENTHAL: Right.

6 MS. MAJD: Calls for speculation.

7 THE WITNESS: To the extent I know of,
8 perhaps a handful of times, perhaps five times at the
9 most, that I can remember.

10 MR. ROSENTHAL: Q. And do you remember
11 whether, in those instances, the toilets that were not
12 functioning properly were repaired?

13 MS. MAJD: Calls for speculation and vague.

14 THE WITNESS: Yes, they were, but I do not
15 know like the specifics as to how long it took for them
16 to get repaired.

17 MR. ROSENTHAL: Q. Do you remember any of
18 the toilets being broken for longer than a week?

19 A. To the extent that I know of, no.

20 Q. You stated that on occasion, some toilets
21 would not be functioning properly. Were those toilets
22 in a particular bathroom?

23 MS. MAJD: Calls for speculation.

24 THE WITNESS: To the extent I know of, it
25 was the yard bathroom.

1 MS. MAJD: Same objection.

2 THE WITNESS: Yes, the yard bathroom, there
3 were a few instances where people used the bathroom and
4 go to wash their hands and press down on the button for
5 the water to come out, but it was broken so no water
6 would come out. And I believe there were one or two
7 instances my sophomore year that happened on the third
8 floor boys' bathroom as well.

9 MR. ROSENTHAL: Q. Do you recall about how
10 often the sink in the yard bathroom was not functioning
11 properly during the time you were at Balboa?

12 MS. MAJD: Calls for speculation.

13 THE WITNESS: As far as the yard bathroom
14 sinks, I believe it was on rare occasions a common
15 thing.

16 MR. ROSENTHAL: Q. Is there some way to
17 estimate how many times a month?

18 A. Per month, I would say twice, three times a
19 month, perhaps.

20 Q. And with respect to all the instances you've
21 identified about sinks that were not functioning, did
22 those sinks get repaired?

23 MS. MAJD: Calls for speculation.

24 MR. ROSENTHAL: Q. To the extent you know.

25 MS. MAJD: Compound.

1 THE WITNESS: To the extent I know, I don't
2 know.
3 MR. ROSENTHAL: Q. Do you remember the
4 sinks that were not functioning on one day functioning
5 subsequent to that?
6 MS. MAJD: Vague.
7 MR. ROSENTHAL: Q. Do you understand the
8 question?
9 A. Are you saying do I remember times when the
10 sink was broken and after that when it was fixed?
11 Q. Right.
12 A. Yes.
13 Q. Do you remember any instance in which the
14 sink was broken and remained broken indefinitely?
15 MS. MAJD: Objection. Vague.
16 THE WITNESS: To the extent I know of, no.
17 MR. ROSENTHAL: Q. Do you remember any sink
18 remaining unrepaired for longer than a week?
19 MS. MAJD: Calls for speculation.
20 THE WITNESS: To the extent I know of, I
21 can't remember.
22 MR. ROSENTHAL: Q. Do you feel that -- is
23 it your opinion that the school did a reasonably good
24 job of repairing the toilets, urinals, and sinks when
25 they needed repair?

1 MS. MAJD: Objection. Vague as to time.
2 Calls for speculation. Compound. Vague as to
3 "Reasonable job."
4 THE WITNESS: To the extent I know of, I
5 think they did a reasonable job, but they, in my
6 opinion, took too long because I don't think the
7 bathrooms should be in that condition for even a day.
8 MR. ROSENTHAL: Q. Do you know how the
9 toilets at Balboa became broken?
10 MS. MAJD: Calls for speculation. Vague.
11 THE WITNESS: No, I do not.
12 MS. MAJD: Overbroad.
13 MR. ROSENTHAL: Q. Did you ever hear that
14 students caused the toilets to overflow on occasion?
15 MS. MAJD: Objection. Vague.
16 THE WITNESS: To the extent I know of, no.
17 MR. ROSENTHAL: Q. Can you describe for me
18 generally the condition of the bathrooms at Balboa with
19 respect to their cleanliness?
20 MS. MAJD: Objection. Vague and calls for
21 speculation. Overbroad.
22 THE WITNESS: With regard to the third floor
23 bathroom, I really cannot say because I don't use that
24 bathroom, but the second floor bathroom is generally
25 always clean and the yard bathroom is, I wouldn't say

1 horrible conditions, but pretty poor quality of
2 cleanliness.
3 MS. MAJD: Michael, are we limiting this in
4 time?
5 MR. ROSENTHAL: I can ask that question.
6 Q. Is that true for the entire time you were at
7 Balboa High School?
8 MS. MAJD: Well, it is compound. Break it
9 down.
10 MR. ROSENTHAL: All right. Let's do that.
11 Q. You said that the second floor boys'
12 bathroom at Balboa was clean. Was that true for the
13 entire time you've been at the school?
14 MS. MAJD: Calls for speculation.
15 THE WITNESS: To the extent I know of, yes.
16 MR. ROSENTHAL: Q. How about the yard
17 bathroom being in poor condition, would you say that
18 was true for the entire time you've been at Balboa?
19 MS. MAJD: Calls for speculation.
20 THE WITNESS: To the extent I know of, for
21 the most part, yes.
22 MR. ROSENTHAL: Q. Is the second floor at
23 Balboa one of the bathrooms that is locked during the
24 day -- let me ask that question first. Is that one of
25 the bathrooms that is locked during the day, the one on

1 the second floor at Balboa?
2 A. Yes, unless you get a security escort to
3 take you to the bathroom during class time.
4 Q. Is that the only way the students have
5 access to the bathrooms is by being let in by a
6 security guard?
7 MS. MAJD: Calls for speculation.
8 THE WITNESS: For the second and third
9 floor, yes.
10 MR. ROSENTHAL: Q. When a student -- have
11 you ever used the bathroom on the second floor with a
12 security guard escort?
13 A. Yes, my junior year. This is when the
14 policy was implemented and currently this year.
15 Q. And does the security guard remain with you
16 while you use the bathroom in those instances?
17 A. Yeah, they open the door. You go inside and
18 they wait for you on the outside for you to come out.
19 Q. What happens when you come out of the
20 bathroom?
21 A. They --
22 MS. MAJD: Vague. Go ahead.
23 THE WITNESS: They lock the bathroom and
24 escort you back to class.
25 MR. ROSENTHAL: Q. During your freshman and

1 sophomore years, was the second floor bathroom locked
 2 at all times during the day?
 3 A. To the --
 4 MS. MAJD: Calls for speculation.
 5 THE WITNESS: Sorry.
 6 MR. ROSENTHAL: Q. To the extent you know.
 7 A. To the extent I know of, no, they were not
 8 locked.
 9 Q. Did students have access to those bathrooms
 10 whenever they needed access to those bathrooms?
 11 MS. MAJD: Same objection.
 12 THE WITNESS: To the extent that I know of,
 13 yes.
 14 MR. ROSENTHAL: Q. Do you recall the
 15 condition of those bathrooms being somewhat worse when
 16 the bathrooms were unlocked at all times during the
 17 day?
 18 MS. MAJD: Vague as to "Somewhat worse."
 19 Compound. Vague as to time.
 20 THE WITNESS: Can you rephrase the question,
 21 please?
 22 MR. ROSENTHAL: Q. You testified that
 23 during your freshman and sophomore year, the second
 24 floor boys' bathroom was unlocked and during your
 25 junior and senior year, there was a change in policy

1 and those bathrooms were locked and could only be used
 2 by students when escorted by a security guard; is that
 3 right?
 4 A. Correct.
 5 Q. Did you notice any change in the condition
 6 of that bathroom with respect to the cleanliness as a
 7 result of that policy?
 8 MS. MAJD: Vague and calls for speculation.
 9 THE WITNESS: As far as regards to the
 10 second floor bathroom, to the extent I know of, no. It
 11 remained the same.
 12 MR. ROSENTHAL: Q. So you don't remember
 13 the second floor boys' bathroom being dirtier when it
 14 was open all day?
 15 MS. MAJD: Objection. Asked and answered.
 16 Calls for speculation.
 17 THE WITNESS: No, I do not remember.
 18 MR. ROSENTHAL: Q. With respect to the
 19 second floor boys' bathroom, during the time you spent
 20 at Balboa, have there always been sufficient supplies
 21 in that bathroom? By "Supplies" I'm referring to
 22 things like soap, paper towels, toilet paper.
 23 MS. MAJD: Vague as to "Sufficient." Calls
 24 for speculation.
 25 THE WITNESS: Can you rephrase the question?

1 Is it all bathrooms or just the second floor?
 2 MR. ROSENTHAL: I'm referring to just the
 3 bathroom on the second floor, the boys' bathroom on the
 4 second floor.
 5 Q. Do you want me to repeat the whole question?
 6 A. No. Generally, yes, there is always
 7 supplies, sufficient amount of supplies.
 8 Q. Is that true for the entire time you've been
 9 attending Balboa?
 10 MS. MAJD: Same objection.
 11 THE WITNESS: To the extent that I know of,
 12 yes.
 13 MR. ROSENTHAL: Q. Do you recall any
 14 specific instances in which that bathroom lacked
 15 specific supplies?
 16 MS. MAJD: Compound.
 17 THE WITNESS: I believe there was an
 18 instance last year where the second floor bathroom
 19 there were no paper towels.
 20 MR. ROSENTHAL: Q. And do you recall
 21 notifying anybody of that?
 22 MS. MAJD: Vague.
 23 THE WITNESS: No, I do not.
 24 MR. ROSENTHAL: Q. How about the third
 25 floor bathroom, I know you said you don't use it that

1 often. Would you say that bathroom was, in your
 2 experience, generally supplied with sufficient
 3 materials such as toilet paper, paper towels, and soap?
 4 MS. MAJD: Vague as to "Sufficient." Vague
 5 as to time.
 6 THE WITNESS: As far as the third floor
 7 bathroom --
 8 MS. MAJD: No foundation. Sorry. Go ahead.
 9 THE WITNESS: I haven't used the third floor
 10 bathrooms, to my knowledge, since sophomore year, so
 11 then my sophomore year when I did use that bathroom, it
 12 generally had paper towels, toilet paper, but every now
 13 and then, it would be a shortage or absolutely no soap.
 14 MR. ROSENTHAL: Q. Do you recall how
 15 frequently that bathroom lacked soap during your
 16 freshman and sophomore year when you used that
 17 bathroom?
 18 A. It was pretty rare, once, twice, three times
 19 a month, perhaps.
 20 Q. Did you ever notify anybody that that
 21 bathroom was missing soap?
 22 A. To the extent that I know of, I can't
 23 remember.
 24 Q. What did you do in the instances in which
 25 you used the bathroom and there was no -- it was

1 missing supplies such as no soap or no paper towels?
 2 A. Many students, when there was like no soap,
 3 they couldn't use soap, they just had to use water, but
 4 when there were no paper towels, students had to wash
 5 their hands with soap and water and then they would
 6 have to, if there was enough like toilet paper, use it
 7 that way or just some students would even just keep
 8 their hands wet or wipe it on the walls or -- you know,
 9 that is about it.
 10 Q. I would like to turn your attention to the
 11 bathroom located in the yard. Can you describe for me
 12 in detail the condition of that bathroom with respect
 13 to cleanliness over the time you've been at Balboa?
 14 MS. MAJD: Vague. Calls for speculation.
 15 THE WITNESS: As far as -- to my knowledge,
 16 that I know of, the yard bathroom is like generally the
 17 last bathroom that anyone wants to use because more
 18 times than not, there is like footprints on the floor
 19 that are dirty and trash and there is no paper towels
 20 or there is toilet paper on the floor or there is no
 21 soap.
 22 MR. ROSENTHAL: Q. Was there any adult
 23 supervision of that bathroom?
 24 MS. MAJD: Calls for speculation.
 25 MR. ROSENTHAL: Q. To the extent you know.

1 MS. MAJD: Vague. Vague as to time.
 2 THE WITNESS: To the extent I know of, no.
 3 MR. ROSENTHAL: Q. Do you ever use the yard
 4 bathroom first thing in the morning when you come to
 5 school?
 6 A. I can remember a few instances where, yeah,
 7 I had to, like when I really had to go to the bathroom
 8 before school started and I was in the cafeteria and I
 9 really have to go, so I would just go to the quad
 10 bathroom.
 11 Q. And those instances, can you describe for me
 12 the condition of the yard bathroom with respect to
 13 cleanliness?
 14 MS. MAJD: Objection. Vague. Compound.
 15 THE WITNESS: Everything was pretty much
 16 generally the same as far as dirt being on there and
 17 since the janitor, I believe every day after school,
 18 picks up the trash and stuff so there was no trash --
 19 excuse me, there was never really any trash in the
 20 morning before school starts, but there was like never
 21 any soap, so I had to use the water and sometimes there
 22 would be paper towels and sometimes you would have to
 23 use toilet paper.
 24 MR. ROSENTHAL: Q. Did you have an
 25 understanding as to -- strike that.

1 Do you know whether the bathrooms at Balboa
 2 were cleaned on a regular basis?
 3 MS. MAJD: Vague as to "Regular basis."
 4 THE WITNESS: No, I do not know.
 5 MR. ROSENTHAL: Q. Do you know whether
 6 janitors cleaned the bathrooms on a regular basis?
 7 A. To the extent I know of, I don't know.
 8 Q. Do you know whether janitors -- strike that.
 9 Do you know whether anybody at Balboa
 10 stocked the bathrooms on a regular basis with soap,
 11 paper towels, toilet paper?
 12 MS. MAJD: Vague and compound.
 13 THE WITNESS: To my knowledge, I have never
 14 physically saw anyone go into the bathroom and stock it
 15 with the proper materials or anything like that, no.
 16 MR. ROSENTHAL: Q. Do you know whether
 17 janitors, in fact, did that?
 18 MS. MAJD: Calls for speculation.
 19 THE WITNESS: I don't know.
 20 MR. ROSENTHAL: Q. On the instances when
 21 you -- when bathrooms were missing particular supplies,
 22 did you ever speak to any of the janitors to get
 23 additional supplies?
 24 A. No, because they are generally not there in
 25 the morning.

1 Q. How about during any other times of the day,
 2 did you ever speak to janitors about getting
 3 replacement supplies at other times?
 4 A. To the extent I know of, I cannot remember.
 5 Q. Other than there being footprints in the
 6 bathroom and trash being on the floor, is there
 7 anything else that made the yard bathroom not clean, in
 8 your opinion?
 9 MS. MAJD: Objection. That misstates his
 10 testimony. He also said there were no paper towels.
 11 There is toilet paper on the floor and there is no
 12 soap.
 13 THE WITNESS: I won't say rare occasions,
 14 but generally sometimes there is like urine on the
 15 floor also.
 16 MR. ROSENTHAL: Q. Okay. Do you know how
 17 that got there?
 18 A. No.
 19 MS. MAJD: Calls for speculation.
 20 MR. ROSENTHAL: Q. Have you ever seen any
 21 janitors cleaning any of the bathrooms during the
 22 school day?
 23 A. I believe I've witnessed a few instances
 24 where I have saw a janitor coming out of the bathroom
 25 with, I don't know what is the title of it, but it is

1 kind of like a stick where they put the trash inside of
2 it, so I saw a few instances where the janitor was
3 coming out of the bathroom, but I don't know for sure
4 if he cleaned it or not.

5 Q. On the instances when you saw a janitor come
6 out of the bathroom, did you ever go into the bathroom
7 to see if it was clean or not?

8 A. No.

9 Q. You said on some occasions you had the
10 unfortunate experience of seeing urine on the floor.
11 Did you ever tell anybody about that?

12 A. I can remember telling security guards and
13 they would go inside and check it out and they would be
14 upset also and they would tell the janitor, I believe,
15 and depending on what the janitor was doing at the
16 particular time, would go on to say he would usually
17 clean up the urine and stuff on the floor.

18 Q. Do you remember ever seeing something like
19 that that remained not cleaned for an extended period
20 of time?

21 MS. MAJD: Calls for speculation and vague.

22 MR. ROSENTHAL: Q. Do you understand what
23 I'm asking?

24 A. No. Can you please rephrase it?

25 Q. If, for example, you went into the bathroom

1 MS. MAJD: Vague as to which bathrooms and
2 to time.

3 MR. ROSENTHAL: Q. In any bathroom at any
4 time.

5 A. I can remember instances where there was
6 graffiti on the -- the walls in the yard bathroom and
7 on the stall doors in the yard bathroom as well as on
8 -- I believe there was an instance my sophomore year on
9 the third floor bathroom where there seemed to be some
10 graffiti on the stall door.

11 Q. Other than instances in which there was
12 graffiti on the walls or stall doors in the yard
13 bathroom and instances of graffiti on the stall door on
14 the third floor bathroom, do you recall any other
15 instances of graffiti in any of the other bathrooms at
16 Balboa?

17 A. No.

18 Q. Do you recall there ever being any graffiti
19 in the second floor bathroom at any time?

20 MS. MAJD: Calls for speculation.

21 THE WITNESS: That I can remember, no.

22 MR. ROSENTHAL: Q. Let's start with the
23 third floor bathroom. You said during your sophomore
24 year, you recalled seeing some graffiti on a stall
25 door. Was that one instance or was it more than one

1 one day and you saw there was urine on the floor, if
2 you used that bathroom later on in the day, would the
3 urine continue to be there generally?

4 MS. MAJD: Calls for speculation.

5 Incomplete hypothetical.

6 THE WITNESS: Generally, I would say yes.

7 MR. ROSENTHAL: Q. And how about if you
8 went to the bathroom the next day, would the urine
9 still be there the next day?

10 MS. MAJD: Same objections.

11 MR. ROSENTHAL: Q. Generally.

12 A. Generally, I would probably say no.

13 Q. Anything else that made the bathroom in the
14 yard not clean in your opinion that you haven't already
15 told me about?

16 A. Other than that, no.

17 Q. During your time at Balboa, was there any
18 other damage to any of the bathrooms that you are aware
19 of that you haven't already told me about?

20 MS. MAJD: Vague as to "Damage."

21 MR. ROSENTHAL: Q. Do you understand what
22 I'm asking?

23 A. Regards to graffiti or something like that?

24 Q. I would include that, sure. Was there
25 graffiti in the bathrooms?

1 instance?

2 A. I believe it was more than one instance and
3 one particular instance, the graffiti writing or mark
4 remained there for a few weeks.

5 Q. After a few weeks, was the graffiti you are
6 referring to removed?

7 A. Yes.

8 Q. Do you remember any graffiti remaining in
9 any bathroom at Balboa for more than a few weeks?

10 A. To my knowledge, the yard bathroom, I
11 believe even this year, even currently, there is like
12 some graffiti, albeit small, on the walls, perhaps.

13 Q. And that has been there for more than a few
14 weeks?

15 A. Yeah, it has been there for a while.

16 Q. Do you remember how many instances -- how
17 many times you saw graffiti in the third floor bathroom
18 over the entire time you've been at Balboa?

19 A. A handful of times, maybe five times at the
20 most.

21 Q. How about in the yard bathroom, can you tell
22 me the total number of times you've seen graffiti in
23 that bathroom?

24 MS. MAJD: It is a little vague in that some
25 of the graffiti has remained for over a few weeks,

1 so --

2 THE WITNESS: Yeah, because there is
3 particular graffiti which I see daily, but it is the
4 same exact graffiti that I see daily and there is other
5 graffiti which is not -- that I don't see daily which,
6 perhaps, I see seven to ten times, different graffiti
7 markings.

8 MR. ROSENTHAL: Q. Would you say you see
9 graffiti -- would you say you've seen graffiti every
10 time you've used the yard bathroom?

11 A. Some form of graffiti, yes.

12 Q. So some form of graffiti is always present
13 in the yard bathroom?

14 A. Yes.

15 Q. Does some of the graffiti in the bathroom
16 get removed?

17 MS. MAJD: Calls for speculation.

18 THE WITNESS: To my knowledge, yes.

19 MR. ROSENTHAL: Q. Is the graffiti that
20 gets removed located in a particular part of the
21 bathroom?

22 A. To the extent that I know of, it usually is
23 located on the wall or the times I could say.

24 Q. And how about the graffiti that remains, is
25 that located in different parts of the bathroom?

1 you -- strike that.

2 Other than inside the stalls, is there any
3 other place in the yard bathroom which there has been
4 graffiti that has not been removed?

5 MS. MAJD: Calls for speculation.

6 THE WITNESS: I cannot remember.

7 MR. ROSENTHAL: Q. Is it your testimony
8 that graffiti that appears on the walls of the yard
9 bathroom is generally removed?

10 MS. MAJD: Calls for speculation. Asked and
11 answered and misstates his testimony.

12 THE WITNESS: Generally, yes.

13 MR. ROSENTHAL: Q. And earlier you referred
14 to some graffiti appearing on the tiles. What tiles
15 are you referring to?

16 A. Tiles in the yard bathroom.

17 Q. Where are those tiles located?

18 A. Those tiles are located near the mirrors in
19 the yard bathroom.

20 Q. And is it your testimony that the graffiti
21 that appears on those tiles is also removed on a
22 regular basis?

23 MS. MAJD: Calls for speculation. Vague as
24 to "Regular basis."

25 THE WITNESS: Regular basis, I don't know.

1 MS. MAJD: Calls for speculation.

2 THE WITNESS: To the extent I know of, it is
3 on the inside of the stall doors.

4 MR. ROSENTHAL: Q. So just that I'm clear,
5 and I'm not trying to put words in your mouth, but is
6 it your testimony that the graffiti that appears on the
7 walls in the bathroom is removed generally and the
8 graffiti that is on the stall doors in the bathroom is
9 generally not removed?

10 MS. MAJD: That misstates his testimony. He
11 said that some of the graffiti gets removed and some of
12 that is located on the walls or tiles and that the
13 graffiti that remains he said is on the inside of the
14 stall doors.

15 THE WITNESS: Can you rephrase the question,
16 please?

17 MR. ROSENTHAL: Sure.

18 Q. Are there certain parts of the bathroom, the
19 yard bathroom that are -- strike that.

20 Is graffiti removed from certain parts of
21 the yard bathroom on a regular basis?

22 MS. MAJD: Calls for speculation. Vague as
23 to "Regular basis."

24 THE WITNESS: I don't know.

25 MR. ROSENTHAL: Q. Is the graffiti that

1 MR. ROSENTHAL: Q. Okay. Do you remember
2 any graffiti appearing on those tiles that remained for
3 more than a couple of weeks?

4 A. I believe there was an instance where
5 someone carved something where it remained, and I don't
6 know if it still does, but it remained for more than a
7 few weeks I know for sure.

8 Q. And other than that instance of carved
9 graffiti, are you aware of any other graffiti that
10 remained on those tiles for more than a few weeks?

11 MS. MAJD: Calls for speculation. Asked and
12 answered.

13 THE WITNESS: No.

14 MR. ROSENTHAL: Q. Other than the -- strike
15 that.

16 MS. MAJD: I would like to take a break
17 sometime soon. Would you like to finish with bathrooms
18 first?

19 MR. ROSENTHAL: Let me ask one or two
20 questions and we can move on from there, although
21 sometimes I remember things when we take a break, so
22 don't hold me to it.

23 Q. We've been talking about the conditions of
24 the bathrooms at Balboa for the last few minutes.

25 MS. MAJD: Several minutes.

1 MR. ROSENTHAL: Q. Several minutes, many
 2 minutes. Are there any other concerns you had about
 3 the bathrooms at Balboa that you have not already told
 4 me about?
 5 A. No.
 6 MR. ROSENTHAL: Okay. Why don't we take a
 7 break here then.
 8 MS. MAJD: Okay. Thank you.
 9 (Recess taken.)
 10 MR. ROSENTHAL: Q. Mr. Lewis, did you have
 11 any concerns about classroom temperatures at Balboa
 12 High School?
 13 MS. MAJD: Vague.
 14 MR. ROSENTHAL: Q. Do you understand what
 15 I'm asking?
 16 A. Regarding how hot or cold it is in a
 17 particular class?
 18 Q. Right.
 19 A. Yes.
 20 Q. Can you tell me what concerns you had in
 21 that regard?
 22 A. Currently right now in my American democracy
 23 class and my English/European literature class,
 24 temperatures to me seem to be a problem.
 25 Q. When you say a problem, can you describe for

1 A. No.
 2 Q. Other than that additional concern, are
 3 there any other concerns you have about classroom
 4 temperatures at Balboa at any time during your years
 5 there?
 6 A. Other than that, there has been certain
 7 occasions this year also in my emergency service
 8 training class where the heater is sometimes on and
 9 sometimes not. It seems as if when it is cold outside,
 10 the heater is not working, but when it is hot out, it
 11 is working for some reason and at the AACE program is
 12 with two "As," A-A-C-E. Sorry.
 13 Q. Okay. In addition to that additional
 14 concern regarding your emergency services training
 15 class, are there any other instances in which you've
 16 had any concerns about the classroom temperature at
 17 Balboa at any time you've been a student there?
 18 A. To my knowledge, no.
 19 Q. Have the classroom temperatures in all of
 20 your remaining classes been at comfortable levels?
 21 MS. MAJD: Vague.
 22 THE WITNESS: Yes.
 23 MR. ROSENTHAL: Q. I would like to focus in
 24 on the individual classes you identified where you had
 25 some concerns about the classroom temperature. You

1 me what the problem is?
 2 A. For my American democracy class, internally
 3 it is always hot. The heater is always on. Even when
 4 it is hot outside, it is generally on and for my
 5 English/European literature class, the heater always
 6 seems not to be on. Like when it is really cold
 7 outside, the heater is not working for some reason.
 8 Q. Other than those two classes, have you had
 9 any other concerns regarding classroom temperatures at
 10 Balboa at any time?
 11 A. Other than that, the college counseling room
 12 a lot of the seniors go to, the heater is broken and it
 13 is hot in there and they've tried to fix it, but for
 14 some reason, it hasn't worked because it remains hot
 15 even when it is really hot outside.
 16 Q. Just so I'm clear, do you have a class that
 17 meets in the college counseling room?
 18 A. No, it is not a particular class.
 19 Q. Is that where school counselors work?
 20 A. The college advisors. It is a program that
 21 is run at our school called AACE and they generally
 22 work in there and that is where seniors go to get help
 23 regarding college.
 24 Q. Do you know what AACE stands for, by any
 25 chance?

1 said in your American democracy class, that classroom
 2 was always hot, that the heater was always on; is that
 3 right?
 4 A. Currently; I have that class currently.
 5 Q. This semester? That has been a problem this
 6 year?
 7 A. Yes.
 8 Q. Can you tell me where that classroom is
 9 located at Balboa?
 10 A. It is located on the first floor.
 11 Q. And can you tell me which building?
 12 A. Which building? I don't know what you mean
 13 by that.
 14 Q. In what part of the campus is it located?
 15 A. Specifically, towards the left end of the
 16 school.
 17 Q. Is there a classroom number for that class?
 18 A. No, but I have the teacher's name, but I
 19 can't remember the class number off the top of my head,
 20 no.
 21 Q. Can you tell me the teacher's name again, if
 22 you haven't given it to me already?
 23 A. Mr. Deguia, D-e-g-u-i-a.
 24 Q. That reminds me, I don't think I got your
 25 teachers for the classes you are taking this semester.

1 Why don't you tell me who teaches your AP English
 2 class.
 3 A. Mr. Gonzalez.
 4 Q. And your American democracy is taught by Mr.
 5 Deguia?
 6 A. Correct.
 7 Q. Who do you have for phys. ed this year?
 8 A. Mr. Gray.
 9 Q. Who do you have for English/European lit?
 10 A. Mr. Bond.
 11 Q. And you previously told me Lieutenant Leech
 12 is teaching the emergency services training class; is
 13 that correct?
 14 A. Correct.
 15 Q. How about who teaches your health class?
 16 A. Ms. Sunga.
 17 Q. Great. Have you ever complained to Mr.
 18 Deguia about the classroom temperature in American
 19 democracy?
 20 A. Yes, because I -- in my seat where I sit, my
 21 assigned seat is like really, really close to the
 22 heater. It is like I sit here where I am now and it is
 23 like where you are sitting. The heater is behind me,
 24 so generally a lot of students in the class will
 25 complain and say, especially on a hot day, that "Why is

1 every day that I have his class, so four times a week.
 2 Q. And is your testimony that even on days when
 3 it is cold outside, it is too hot in his classroom?
 4 A. No, I was saying -- I meant to state that
 5 even when it is cold outside, the heater is on and when
 6 it is hot outside, the heater is still on.
 7 Q. And on days when it is cold outside and the
 8 heater is on, is it uncomfortably hot for you in his
 9 classroom?
 10 A. No.
 11 Q. I'm not trying to put words in your mouth.
 12 Did you -- is it only uncomfortably hot in Mr. Deguia's
 13 classroom when the temperature is also warmer outside?
 14 A. Yes.
 15 Q. About how often does that happen that it is
 16 warm outside and uncomfortably hot in Mr. Deguia's
 17 class?
 18 A. It is every time when it is hot out.
 19 Q. Does it depend on the time of year?
 20 A. I would believe so, yes.
 21 Q. So is it becoming less of a problem as we
 22 get closer to winter?
 23 A. Yeah, currently right now, it is not that
 24 big of a problem because it is raining and cold
 25 outside.

1 it always so hot in here?" And "Why is it so hot, Mr.
 2 Deguia?"
 3 And he would say he doesn't know what is
 4 going on with the heater and would open the door and
 5 tell students to open the windows. That is the best he
 6 could do because he didn't know what the problem was.
 7 Q. When the classroom door and windows were
 8 open, did that help alleviate the classroom
 9 temperature?
 10 MS. MAJD: Calls for speculation.
 11 THE WITNESS: For me personally, for the
 12 most part, no. I really can't say as to how the other
 13 students felt.
 14 MR. ROSENTHAL: Q. Did you ever ask Mr.
 15 Deguia to have someone come to repair the heater?
 16 A. I can't remember, no.
 17 Q. Do you remember -- do you know whether Mr.
 18 Deguia ever contacted anybody to have the heater
 19 repaired?
 20 A. No, I do not know.
 21 Q. Can you tell me approximately how many times
 22 per week Mr. Deguia's class is uncomfortably hot as a
 23 result of the situation you just described?
 24 A. Since I have his class -- we have each class
 25 four times a week. I would say it is generally hot

1 Q. I would like to turn your attention to your
 2 English/European literature class with, is that Mr.
 3 Bond?
 4 A. Correct.
 5 Q. Mr. Bond's class, can you tell me where that
 6 class is located?
 7 A. It is located on the third floor.
 8 Q. What part of the school?
 9 A. That is also kind of the left side of the
 10 school.
 11 Q. Now, you said in that class, the problem was
 12 that the heater didn't work?
 13 A. I currently have that class also.
 14 Q. Has the heater not worked for the entire
 15 year?
 16 A. To my knowledge, no, it has not worked.
 17 Q. Has that classroom been uncomfortably cold
 18 on occasion?
 19 A. Yeah.
 20 Q. Has that only been the case on days when it
 21 is cold outside?
 22 A. Yes.
 23 MS. MAJD: Calls for speculation and vague.
 24 MR. ROSENTHAL: Q. So when the temperature
 25 was warm outside, was Mr. Bond's classroom

1 uncomfortably cold at any time that you recall?
 2 MS. MAJD: Vague and calls for speculation.
 3 THE WITNESS: Any time I can recall, it was
 4 not uncomfortable.
 5 MR. ROSENTHAL: Q. Can you tell me
 6 approximately how often per week Mr. Bond's classroom
 7 is uncomfortably cold?
 8 A. I also have Mr. Bond four times a week, so I
 9 would say really on days like today, Wednesday, because
 10 our schedule is different each day with regards to
 11 classes. Sometimes we have him in the afternoon.
 12 Sometimes we have him in the morning, so perhaps once a
 13 week is really bad like days like today, Wednesday.
 14 Q. And is the -- is Mr. Bond's classroom
 15 typically colder in the morning than it is in the
 16 afternoon?
 17 MS. MAJD: Calls for speculation.
 18 THE WITNESS: Generally, yes.
 19 MR. ROSENTHAL: Q. Have you ever complained
 20 to Mr. Bond that his classroom was too cold?
 21 A. Yes. I, along with other students on
 22 Wednesday, usually or pretty much can say all the time
 23 when we go into his class on Wednesday and we go inside
 24 and it is always cold and we would tell Mr. Bond, like
 25 we just came from Mr. Deguia's class and it was hot and

1 now we're in here and it is really cold and he would
 2 say, "Try to turn on the heater." And students would
 3 make an effort to turn on the heater, but after waiting
 4 approximately ten minutes or so, the heater would still
 5 not come on and Mr. Bond would say, "Make sure you have
 6 a jacket or something and keep the windows closed."
 7 And he would close the door sometimes.
 8 Q. Do you recall any occasion in which the
 9 heater functioned in that class?
 10 MS. MAJD: Calls for speculation. Vague.
 11 THE WITNESS: I cannot recall any times when
 12 it did.
 13 MR. ROSENTHAL: Q. Do you know whether Mr.
 14 Bond made any efforts to have the heater in his
 15 classroom repaired?
 16 A. No, I do not know.
 17 Q. Have you ever seen anybody come into the
 18 class to take a look at the heater to see why it is not
 19 functioning?
 20 MS. MAJD: Calls for speculation.
 21 THE WITNESS: That I can recall, no.
 22 MR. ROSENTHAL: Q. I would like to turn
 23 your attention briefly to the college counseling room.
 24 You said the heater in that room is also broken and
 25 that it is always hot in that room; is that right?

1 A. Yes.
 2 Q. And I believe you also said that someone
 3 tried to fix the heater. Do you know who tried to fix
 4 the heater in that room?
 5 A. The person, I want to say the main lady who
 6 works in college counseling, Kiliani Vasquez, whenever
 7 we go in there, usually during lunchtime, if our
 8 teachers give us a pass during class time, we go in
 9 there and it was generally hot outside and we tell her,
 10 "Why is it always hot in here?"
 11 And she was like, "I don't know. The heater
 12 is broken."
 13 "Have you tried turning it off?"
 14 And she was like, "Yeah, I tried turning it
 15 off and it won't turn off," so --
 16 Q. Did she ever tell you that she tried to have
 17 the heater fixed?
 18 A. To my knowledge, no.
 19 Q. Earlier you said that somebody tried to have
 20 the heater fixed in that classroom. Do you know who
 21 you were referring to when you said that?
 22 A. I believe it was Ms. Vasquez that told us
 23 that she attempted to try to shut off the heater.
 24 Q. Do you know whether her attempts to shut off
 25 the heater ever worked?

1 MS. MAJD: Vague. Calls for speculation.
 2 THE WITNESS: No, because it was recent as
 3 yesterday, I believe, I was in there and it was still
 4 generally hot. It is good now that it is cold, but the
 5 heater is still turned on.
 6 MR. ROSENTHAL: Q. About how often do you
 7 go to the college counseling room in a given week?
 8 A. Given week, I'm usually there -- I stop by
 9 at least -- I'm there at least once every day. I stop
 10 by there at least one time per day.
 11 Q. I would like to turn your attention to the
 12 last class you identified, that being the emergency
 13 services training course, and you said that the heater
 14 was not working in -- not working properly in that
 15 classroom as well. Were there occasions when that
 16 classroom was too hot?
 17 A. Yeah, the way that heater seems to work is
 18 kind of awkward because sometimes when it would be cold
 19 out, the heater wouldn't work and then on the next day
 20 when it is sunny out, the heater is on or something, so
 21 kind of like varied and then there would be instances
 22 where it was cold out and people would say it is really
 23 cold in here, we would turn on the heater and it would
 24 take a while for it to start up and then it would
 25 eventually come on, so it worked differently or

1 periodically. I really don't know why.
 2 Q. You said that classroom was too hot when it
 3 was sunny out. Do you know whether the classroom was
 4 hot because the heater was on or was it because of the
 5 sun?
 6 MS. MAJD: Calls for speculation. Compound.
 7 THE WITNESS: To my knowledge, it was
 8 perhaps a combination of both because I sit kind of
 9 close to the window which is where the heater is.
 10 MR. ROSENTHAL: Q. So where you sit, are
 11 you also in the sunlight when it is a sunny day out?
 12 A. For the most part, yes.
 13 Q. Can you tell me where the emergency services
 14 training class meets at Balboa?
 15 A. That is generally on the second floor. It
 16 is on the left side of the building, also, second
 17 floor.
 18 Q. Did you ever complain to Lieutenant Leech
 19 that the temperature in the class was uncomfortable?
 20 A. Yeah, a lot of students did and when it was
 21 generally too hot, he would open the windows and also
 22 open the door to try and get some air in.
 23 Q. Did he ever attempt to turn off the heater
 24 on those days?
 25 MS. MAJD: Calls for speculation.

1 THE WITNESS: To the extent I know of, yes,
 2 he attempted to turn it on. Sometimes they would come
 3 on, as I stated, and sometimes they would not.
 4 MR. ROSENTHAL: Q. Can you estimate for me
 5 on a weekly basis how often the classroom temperature
 6 in Lieutenant Leech's class was uncomfortable?
 7 A. Well, currently I have him also four times a
 8 week, so I would approximately say once or twice a
 9 week, it is generally uncomfortable in there.
 10 Q. Do you know whether Lieutenant Leech has
 11 taken any steps to get the heater in his classroom
 12 fixed?
 13 A. I don't know.
 14 Q. Have you seen anybody come to the class to
 15 examine the heater in his classroom?
 16 A. That I can remember, no.
 17 Q. Any other concerns about classroom
 18 temperatures at Balboa that you haven't told me about?
 19 MS. MAJD: Vague.
 20 THE WITNESS: No.
 21 MR. ROSENTHAL: Q. Have you ever seen any
 22 rodents at Balboa High School?
 23 MS. MAJD: Vague as to "Rodents."
 24 MR. ROSENTHAL: Q. Do you understand what
 25 I'm asking?

1 THE WITNESS: I cannot recall.
 2 MR. ROSENTHAL: Q. Did opening the doors
 3 and windows alleviate the heat in the classroom?
 4 MS. MAJD: Calls for speculation and
 5 compound.
 6 THE WITNESS: To the extent of my knowledge,
 7 I don't know, perhaps for the students who sat closer
 8 to the door, but for me sitting closer to the window,
 9 not really, no.
 10 And I would like to make a correction with
 11 regards to Mr. Bond's class. Now that I think about
 12 it, it is on the right side of the building, the right
 13 wing. Sorry.
 14 MR. ROSENTHAL: Thank you for correcting.
 15 MS. MAJD: Thank you.
 16 MR. ROSENTHAL: Q. Did Lieutenant Leech
 17 take any steps to alleviate the classroom temperature
 18 in his class when it was too cold in that class?
 19 MS. MAJD: Calls for speculation.
 20 THE WITNESS: To the extent of my knowledge,
 21 the windows would be closed and the door would be
 22 closed.
 23 MR. ROSENTHAL: Q. Did he ever attempt to
 24 turn the heat on on those days?
 25 MS. MAJD: Calls for speculation.

1 A. Mice, stuff like that.
 2 Q. Mice, rats, things of that nature.
 3 A. Yes.
 4 Q. Can you tell me about those instances?
 5 A. There was one instance last year in my US
 6 History, prelaw classroom where my teacher Ms. Safir
 7 was moving boxes, I believe, in the back of the room
 8 and when she cleared out the back space, she said there
 9 is a dead rat back here and some of the students got up
 10 to go see and I saw there was a dead rat in the back of
 11 the room and she was upset and saying like, "This is
 12 unacceptable." And so she called the janitor and he
 13 immediately came and took the dead rat out of the
 14 building or out of the classroom, I should say.
 15 Q. Any other instances in which you've seen any
 16 rodents at Balboa High School?
 17 A. Also that same classroom, my sophomore year,
 18 which was taught by a different teacher, Mr. Streeter,
 19 I didn't physically see the mice in the room, but from
 20 -- judging from the class and teacher's reaction, when
 21 the teacher -- excuse me, the rat came from across the
 22 classroom and some students were screaming like "There
 23 is mice or rats." I can't remember which it was and
 24 they said, "Came from over there."
 25 And the teacher jumped up, "Where is it?"

1 So I would guess -- I wouldn't guess, but I
2 would say that there was a rat, but I didn't physically
3 see it, no. And also I heard of a time where there was
4 a rat in the gym.

5 Q. Can you tell me what you heard about the rat
6 sighting in the gym?

7 A. I can't remember from whom, but I overheard
8 people talking and saying, "Oh, did you guys see that
9 rat that was in the gym?" Like they were trying to
10 catch it, but they couldn't or something like that.

11 Q. Do you know when that occurred?

12 A. The rat in the gym, I believe that also
13 happened last year, my junior year.

14 Q. Any other instances of rat sightings that
15 you are aware of at Balboa High School?

16 A. No.

17 MR. ROSENTHAL: Can you read back my
18 question?

19 (Record read by the reporter.)

20 MR. ROSENTHAL: Q. Are there any other
21 instances of rodent sightings that you are aware of at
22 Balboa High School?

23 A. No.

24 Q. Any instances of sightings of rodent
25 droppings that you are aware of at Balboa High School?

1 called for a janitor that the janitor actually came?

2 MS. MAJD: Calls for speculation.

3 THE WITNESS: That I can remember, I can say
4 between -- about ten minutes.

5 MR. ROSENTHAL: Q. You said during your
6 sophomore year, there was another instance in which a
7 rodent was sighted in the same classroom that you had
8 for Ms. Safir the following year; is that right?

9 A. Correct.

10 Q. Now, you did not physically see the rodent
11 in that instance during your sophomore year?

12 A. No, I just saw my classmates screaming and
13 saying, I believe, "There is a mouse. There's a mouse
14 and it came from over there."

15 And the teacher was shocked and saying,
16 "Where is it? Where is it?"

17 And they were pointing, but I didn't
18 actually physically see it, no.

19 Q. Do you know whether in that instance it was
20 a rat or mouse in that classroom?

21 A. I believe I heard someone yell out, "There
22 is a mouse in the classroom, Mr. Streeter."

23 Q. Okay. Do you recall whether Mr. Streeter
24 did anything, notified anybody about the mouse in his
25 classroom at that time?

1 A. Not that I'm aware of, no.

2 Q. Okay. I'm going to ask you a few follow-up
3 questions about the individual instances you've
4 identified. You said there in Mr. Safer's class last
5 year, she found a dead rat when she was moving some
6 boxes in the back of the class. Did you physically see
7 that dead rodent?

8 A. Yes.

9 Q. Do you know whether it was a mouse or a rat?

10 A. I believe it was a mouse.

11 Q. Can you recognize the difference between a
12 mouse and a rat?

13 A. Generally a rat is much bigger, my
14 understanding.

15 Q. In the instance in Ms. Safir's class, do you
16 remember the size of the rodent you saw?

17 MS. MAJD: Vague.

18 MR. ROSENTHAL: Q. Roughly.

19 A. Pretty small, minimum, not that big.

20 Q. You said that after Ms. Safir found the dead
21 mouse, she made a phone call to somebody to have them
22 clean it up; is that correct?

23 A. Yes, and the janitor came up immediately and
24 took the rat out of the room.

25 Q. Do you recall how long after Ms. Safir

1 MS. MAJD: Calls for speculation.

2 THE WITNESS: I cannot recall.

3 MR. ROSENTHAL: Q. Did he ever tell you
4 that he took any steps to deal with the sighting of the
5 mouse?

6 A. Tell the class or tell me personally?

7 Q. Why don't we start with the class.

8 A. Not that I can remember, no.

9 Q. Did he tell you anything personally?

10 A. No, I can't remember.

11 Q. Other than that one instance in that class,
12 do you remember ever seeing or other students seeing
13 any other rodents in that class or is this a one-time
14 occurrence?

15 A. One-time occurrence.

16 MS. MAJD: Except Ms. Safir's class was the
17 same room.

18 THE WITNESS: Yes.

19 MR. ROSENTHAL: Q. Right, but different
20 class, different year, right?

21 A. Yes.

22 MS. MAJD: Okay.

23 MR. ROSENTHAL: Q. You also said you heard
24 from other students that there had been a rodent
25 sighted in the gym. Do you recall whether that was a

1 mouse or a rat?
 2 MS. MAJD: Calls for speculation.
 3 THE WITNESS: I cannot recall, no.
 4 MR. ROSENTHAL: Q. Do you remember whether
 5 students said there had been a mouse or a rat?
 6 A. I cannot recall. I just remember a student
 7 saying -- I can't remember specifically if it was a rat
 8 or mouse, but they were like, "If you see that in the
 9 gym, they couldn't catch it," is all I remember.
 10 Q. Do you recall any problems at Balboa with
 11 respect to insects at the school?
 12 MS. MAJD: Calls for speculation. Vague.
 13 Go ahead.
 14 THE WITNESS: Insects as far as saying ants?
 15 MR. ROSENTHAL: Q. Including ants and any
 16 other insects.
 17 A. To my knowledge, the worst problem right now
 18 regarding insects is ants. It is happening currently
 19 in my gym class that I have where we -- in the
 20 basketball gym where we exercise and play and stuff
 21 like that, whenever we have to line up for roll call,
 22 the teacher will always tell you, any students, he
 23 would tell people, "Stay away from the walls," because
 24 you can physically see when you look behind just a
 25 whole lot -- a lot of rats -- rats? What am I talking

1 about?
 2 MS. MAJD: It is getting late in the day.
 3 THE WITNESS: A lot of ants just coming down
 4 the walls and also like on the floor, they say don't
 5 sit down too close to the wall because there is a lot
 6 of ants crawling around.
 7 MR. ROSENTHAL: Q. Other than this problem
 8 with ants you've identified during the time you've
 9 spent at Balboa, have there been any other problems
 10 with respect to insects of any kind?
 11 A. No.
 12 MS. MAJD: Calls for speculation. Sorry.
 13 MR. ROSENTHAL: Q. You said that the ant
 14 problem you identified is something that is occurring
 15 this year. Was that a problem prior to this year?
 16 MS. MAJD: Calls for speculation.
 17 THE WITNESS: That I can remember, because I
 18 had gym for the first time last year, so it was also a
 19 problem then, but before last year, I can't say.
 20 MR. ROSENTHAL: Q. Are ants a problem
 21 anywhere else in the school other than the gym?
 22 MS. MAJD: Calls for speculation.
 23 MR. ROSENTHAL: Q. To the extent you know.
 24 A. To the extent I know, no.
 25 Q. Have you ever explained to anybody about the

1 ant problem in the gym?
 2 A. No.
 3 Q. Do you know whether any steps were taken to
 4 deal with the ant problem in the gym?
 5 A. To my knowledge, I don't know.
 6 Q. Have there been any problems at Balboa High
 7 School with regard to any fungus or mold being present
 8 at the school?
 9 MS. MAJD: Calls for speculation.
 10 MR. ROSENTHAL: Q. To the extent you know.
 11 A. To the extent I know, no.
 12 Q. Have you ever heard any such problems exist
 13 at Balboa High School?
 14 A. I have not heard, no.
 15 Q. We've touched on some concerns you had about
 16 the number of students who attend Balboa High School
 17 with respect to the problems involved with respect to
 18 the number of bathrooms at the school. Were there any
 19 other concerns you had regarding the number of students
 20 who attended Balboa High School that we haven't already
 21 discussed?
 22 MS. MAJD: Vague.
 23 THE WITNESS: Yeah, I felt like my first two
 24 years due to the amount of students we had my freshman,
 25 sophomore year, that the class sizes were generally

1 overcrowded.
 2 MR. ROSENTHAL: Q. Was that only a problem
 3 during your first two years at Balboa?
 4 MS. MAJD: Calls for speculation.
 5 THE WITNESS: Personally a problem for me,
 6 yes.
 7 MR. ROSENTHAL: Q. Have you heard of it
 8 being a problem for anybody else other than during
 9 those two years?
 10 A. I cannot remember.
 11 Q. Were there particular classes during your
 12 freshman and sophomore years that you believe were
 13 overcrowded?
 14 MS. MAJD: Vague as to "Overcrowded."
 15 THE WITNESS: I believe, to my knowledge, I
 16 wasn't in the class for a full year, but for my JROTC
 17 class that I was in for a little while freshman year
 18 for about a week or so, but it tends to be a popular
 19 class, and there were at least 45 kids to 50 students
 20 and I believe -- they call them Major Connelly or Major
 21 Perritory. I don't know the Army terms whether they
 22 are majors or not like that -- but they even told some
 23 of the students that they would be getting transferred
 24 out because it is too full.
 25 MR. ROSENTHAL: Q. When you said that some

1 of your classes during the first two years you attended
2 Balboa were overcrowded, in your opinion, can you tell
3 me what you mean by that?

4 A. I felt that there were too many students in
5 the class. I feel that 30 to 35 students in a
6 classroom is too much because there generally seems to
7 make a connection that there are problems associated
8 with that where it takes away from learning time.

9 Q. Do you remember any classes you had at
10 Balboa at any time in which your class was more than 30
11 to 35 students other than the JROTC class you
12 identified?

13 MS. MAJD: Calls for speculation.

14 THE WITNESS: More than 35, no. Other than
15 that class, no.

16 MR. ROSENTHAL: Q. Is the JROTC class that
17 you identified, is that indicated on your transcript
18 anywhere?

19 A. No, it is not because I didn't remain in
20 that class for too long.

21 Q. And it would have been that class for just
22 about a week? I think that is what you testified to.

23 A. About a week.

24 Q. Can you tell me what is the subject matter
25 of that class?

1 A. Yes.

2 Q. How many students were in the class
3 currently?

4 A. Currently I would say maximum --

5 MS. MAJD: Calls for speculation. Sorry.
6 Go ahead.

7 THE WITNESS: Perhaps 30, maybe.

8 MR. ROSENTHAL: Q. Do you believe that
9 class to be overcrowded currently?

10 MS. MAJD: Vague.

11 THE WITNESS: Currently since it is not
12 really a class where you are doing school work,
13 generally I feel that it is okay.

14 MR. ROSENTHAL: Q. Do you recall any -- do
15 you recall taking any classes at Balboa in which each
16 student didn't have their own chair?

17 A. I can --

18 MS. MAJD: Calls for speculation.

19 THE WITNESS: I can recall my sophomore year
20 biology class because the students were transferring in
21 and out. It was varying, so some days, every student
22 would have a desk and some days, some students would
23 have to sit in just chairs without a desk and I believe
24 just for a short while, maybe a few days, there were
25 students who like, I believe, sat on tables and that

1 MS. MAJD: Calls for speculation.

2 THE WITNESS: From my understanding, it is
3 kind of, I won't say related to the Army or military,
4 but it is in that realm.

5 MR. ROSENTHAL: Q. Other than that class,
6 were there any other classes that you took at Balboa
7 that you believe were overcrowded?

8 A. I believe my freshman Spanish class with Ms.
9 Cusigch had too many students. I think the class would
10 have ran a lot smoother if the class size was smaller.

11 Q. Any other classes that you believe were
12 overcrowded? Feel free to look at your transcript.

13 A. Other than that, no. I'm not totally sure.
14 For my first semester, my physical education, my PE
15 class, was really large, but since then has decreased.

16 Q. Do you recall how many students were in your
17 freshman year Spanish class?

18 A. My freshman year in Spanish class, I believe
19 it was 30 to 35 students.

20 Q. And your PE class this year, do you remember
21 how many students started out in that class?

22 A. At one point in time, I would approximately
23 say it was 40 students to 45 students.

24 Q. Was that the maximum number of students in
25 that class?

1 lasted maybe a day or two because the class was so
2 large at that time, I believe.

3 MR. ROSENTHAL: Q. Any other classes you
4 took at Balboa High School in which there weren't
5 enough desks or chairs for the students in the class?

6 MS. MAJD: Calls for speculation.

7 THE WITNESS: Currently this year, it was an
8 instance for once again, the emergency service training
9 class whereas in the beginning of the year, since
10 Lieutenant Leech is not a regular teacher on campus, he
11 just teaches our particular class fifth period, so we
12 were in another teacher's classroom and her class is
13 set up unique, whereas to there are steps like in her
14 classroom, steps, and in each row, there are chairs, so
15 in the beginning of the year, I would say probably the
16 first month of September 2001, we had a lot of students
17 in there, probably 35 students, and there were maybe 25
18 to 30 chairs and/or desks for students to use, so the
19 students, the five to ten students who did not have --
20 that had to sit on the steps on the floor or some one
21 or two students, I would say, sat on the counters and
22 that lasted until the middle of October, perhaps, when
23 we went down -- we moved from the third floor, sorry,
24 to the second floor and that is the room we're
25 currently in and in that class, everyone has a desk to

1 sit into and the class is also smaller because a few
 2 students transferred out.
 3 MR. ROSENTHAL: Q. Do you know why you
 4 switched classrooms in that class?
 5 MS. MAJD: Calls for speculation.
 6 THE WITNESS: No, I do not.
 7 MR. ROSENTHAL: Q. Do you know whether it
 8 was to accommodate the excess number of students who
 9 didn't have their own chairs in the first classroom
 10 your class was in?
 11 MS. MAJD: Asked and answered. Calls for
 12 speculation.
 13 THE WITNESS: No, I do not.
 14 MR. ROSENTHAL: Q. Any other classes
 15 besides the biology class during your sophomore year
 16 and your emergency services training class in which
 17 there were not enough desks or chairs for all the
 18 students in the class?
 19 MS. MAJD: Calls for speculation.
 20 THE WITNESS: To my knowledge, no.
 21 MS. MAJD: Was that limited in time? I'm
 22 sorry, did you say all years?
 23 MR. ROSENTHAL: Q. It was for all your time
 24 at Balboa. I'll give you a chance to respond again, if
 25 you want to look at your transcript again. Any other

1 class aside from the biology class and the emergency
 2 services training class that you took at Balboa in
 3 which not all students had their own desk or chair?
 4 A. No, that was it.
 5 Q. And you said that -- again, I would like to
 6 focus in on the specific instance. Your biology class
 7 during your sophomore year, you said that in that
 8 class, not everybody had their own desk or chair at the
 9 start of the school year. Do you remember how many
 10 students were in the class at the beginning of the
 11 school year?
 12 MS. MAJD: I think that misstates his
 13 testimony. I don't think he said that was just in the
 14 beginning of the school year.
 15 THE WITNESS: I think during that class, it
 16 varied because students were coming in and students
 17 were coming out of the classroom, so the minimum amount
 18 of students, I cannot tell you. I do not remember, but
 19 what I can say is there was instances where there were
 20 not enough desks to accommodate the amount of students
 21 we had in the class.
 22 MR. ROSENTHAL: Q. Was that a problem
 23 throughout the entire school year or was that limited
 24 in time to a particular part of the year?
 25 A. I believe it was beginning. You could say

1 towards the beginning of the school year.
 2 Q. At some point during the school year, were
 3 there enough desks and chairs for all the students in
 4 the class?
 5 MS. MAJD: Calls for speculation.
 6 THE WITNESS: To my knowledge, yes, because
 7 I believe new students -- I believe a few students had
 8 transferred either schools or out of the class. I
 9 don't know, but --
 10 MR. ROSENTHAL: Q. Do you recall what point
 11 in the school year the class had a sufficient number of
 12 desks for each student?
 13 A. I would say after the first few months.
 14 Q. Do you recall some students not having a
 15 desk or chair for the first few months of biology?
 16 A. I can recall, perhaps, maybe two students
 17 because generally, our biology teacher would tell us he
 18 had -- the entire room just didn't have desks. It had
 19 desks and chairs, so the students who did not have
 20 desks, they would get chairs and he would say, "Go to
 21 this classroom here and see if they have any extra
 22 chairs." And that ordeal took place for about maybe
 23 two to three months and it kind of got settled in where
 24 there was a definite amount of students and we were
 25 able to have desks for everyone.

1 Q. Do you remember any instances in which any
 2 student did not have a chair to sit in in that class?
 3 MS. MAJD: Calls for speculation.
 4 THE WITNESS: For the entire year or --
 5 MR. ROSENTHAL: Q. For even a day.
 6 A. Where a student did not have a chair?
 7 Q. Right.
 8 A. I believe there were two students who at one
 9 point sat on a table.
 10 Q. Do you recall how long that occurred for?
 11 A. I would perhaps say it didn't occur for
 12 longer than three days.
 13 Q. And other than those instances where some
 14 students sat on tables for no more than three days, are
 15 there any other instances in that class in which
 16 students did not have their own chair to sit in?
 17 A. No.
 18 MS. MAJD: Besides the times when the
 19 teacher would tell them to go get other chairs?
 20 MR. ROSENTHAL: Q. When students went to
 21 another classroom to obtain chairs, were they generally
 22 successful in doing that?
 23 MS. MAJD: Calls for speculation.
 24 THE WITNESS: I cannot recall.
 25 MR. ROSENTHAL: Q. Other than the instances

1 you've identified, do you recall any other instances in
 2 that class in which any student did not have their own
 3 chair to sit in?
 4 MS. MAJD: Asked and answered.
 5 THE WITNESS: To my knowledge, no.
 6 MR. ROSENTHAL: Take a brief break here?
 7 MS. MAJD: Sure.
 8 (Recess taken.)
 9 MR. ROSENTHAL: I would like to mark this
 10 document as Exhibit No. 3 and ask the witness to take a
 11 look at it and tell me what it is.
 12
 13 (Whereupon, Defendant's Exhibit 3 was marked
 14 for identification.)
 15 MR. ROSENTHAL: Q. Do you recognize the
 16 document?
 17 A. Yes.
 18 Q. Can you tell me what it is?
 19 A. It is my declaration.
 20 Q. If you turn to the last page, is that your
 21 signature towards the bottom of the page?
 22 A. Yes, it is.
 23 Q. And it indicates on this document that you
 24 signed it on August 1st of 2001. Does that seem
 25 accurate to you?

1 A. Yes, it does.
 2 Q. I'm going to ask you to take as long as you
 3 need to read over your declaration and let me know if
 4 there is anything that was not correct at the time that
 5 you signed it on August 1st, 2001.
 6 A. Okay.
 7 MR. ROSENTHAL: And why don't we go off the
 8 record so the witness has an opportunity to do that and
 9 take as long as you need.
 10 (Recess taken.)
 11 MR. ROSENTHAL: Q. Mr. Lewis, have you had
 12 an opportunity to reread your declaration?
 13 A. Yes, I have.
 14 Q. Did you find anything in your declaration
 15 that was incorrect as of the date you signed the
 16 declaration?
 17 MS. MAJD: Vague as to "Incorrect."
 18 THE WITNESS: As it pertains to what I've
 19 stated today as regards to what this document says, if
 20 I found any things that are inaccurate?
 21 MR. ROSENTHAL: Let me try to rephrase the
 22 question.
 23 Q. Were there any items -- is there any
 24 information contained in this document, your
 25 declaration, that was not correct as of the date that

1 you signed it on August 1st, 2001?
 2 MS. MAJD: Vague.
 3 MR. ROSENTHAL: Q. Do you understand the
 4 question?
 5 A. No.
 6 Q. When you signed the declaration on August
 7 1st, 2001, were all of the things that are stated in
 8 this document correct at that time?
 9 A. Yes, except one thing I believe was
 10 misinterpreted.
 11 Q. Okay. Can you tell me what you are
 12 referring to?
 13 A. I'm referring to paragraph eight.
 14 Q. Okay. Is that on the page that is marked
 15 PLTF 02011? Is that the page you are referring to?
 16 A. Yes.
 17 Q. Which paragraph are you referring to?
 18 A. Paragraph eight.
 19 Q. Okay. Can you tell me what in that
 20 paragraph was not correct as of the date you signed the
 21 declaration?
 22 MS. MAJD: He actually said it was
 23 misinterpreted. It misstates his testimony, but go
 24 ahead.
 25 MR. ROSENTHAL: I'm sorry.

1 Q. Please tell me what was misinterpreted.
 2 A. There were two instances of mice at Balboa,
 3 but as I've stated today, physically saw was my junior
 4 year in the US History, prelaw class and my sophomore
 5 year in the world literature class, I assumed there was
 6 a mouse due to the reaction of my teacher and fellow
 7 classmates.
 8 Q. Just so the record is clear, when it says
 9 you saw a mouse run across the room in your world
 10 literature class, is that not true?
 11 A. In my world literature class?
 12 Q. Right.
 13 MS. MAJD: That misstates his testimony.
 14 THE WITNESS: That was misinterpreted.
 15 MR. ROSENTHAL: Q. Let me try it this way:
 16 It says in the second sentence of paragraph eight,
 17 quote, "In my world literature class in tenth grade, I
 18 saw a mouse run across the room."
 19 Is that statement correct?
 20 A. No. Due to the reaction of my teacher and
 21 students, I figured that there was a mouse going cross
 22 the room. Everyone was jumping up, so I would think it
 23 ran across the room, but I didn't see it, no.
 24 Q. You personally didn't see the mouse?
 25 A. No, I didn't see the mouse.

1 Q. Anything else in the declaration that was
2 not correct as of the date you signed it?

3 A. Other than that, on paragraph ten, the last
4 page.

5 Q. Okay.

6 A. The information is correct, but the class is
7 not. It was the same teacher. It got confused, but it
8 was the same teacher that taught my -- I had the same
9 teacher for integrated science as well as biology and I
10 had him freshman year for integrated science and
11 sophomore year for biology, so this, instead of ninth
12 grade integrated science, should have been tenth grade
13 biology.

14 Q. Okay. Thank you for those clarifications.

15 Is there anything contained in this
16 declaration that is no longer correct as of today,
17 aside from the two issues you've already identified?

18 MS. MAJD: Objection. Calls for
19 speculation. Really overbroad.

20 THE WITNESS: Yeah, can you be more specific
21 as to "No longer"?

22 MR. ROSENTHAL: Q. I just asked you if
23 everything in the declaration was accurate as of August
24 1st, 2001. Has anything changed with respect to any of
25 those statements you make in your declaration to make

1 that -- at that time, I felt that Balboa was
2 overcrowded.

3 MR. ROSENTHAL: Q. But you no longer feel
4 it is overcrowded as you sit here today?

5 A. No.

6 MS. MAJD: Calls for speculation.

7 MR. ROSENTHAL: Q. Is there anything like
8 that that you know that you thought was true at the
9 time, but as you sit here today is no longer your
10 opinion?

11 MS. MAJD: Objection. Vague. Calls for
12 speculation. Overbroad. Compound. And it also
13 misstates what he is saying. He signed this on August
14 1st, 2001 when Balboa, he believed, was overcrowded and
15 he is saying this year, he doesn't feel it is
16 overcrowded any longer, so what is in the declaration
17 is not incorrect.

18 THE WITNESS: No.

19 MR. ROSENTHAL: Q. Nothing else?

20 A. No.

21 Q. I'm going to go through some of these
22 paragraphs with you a little bit more in detail. I
23 know we've covered a lot of the information during the
24 deposition today, but there are a few instances in some
25 areas we haven't covered and some additional details I

1 any of them incorrect as we sit here today?

2 MS. MAJD: Objection. Vague. Overbroad.
3 Compound. Calls for speculation. It doesn't quite
4 make sense considering a lot of these have to do with
5 specific classes that occurred in the past.

6 THE WITNESS: I'm sorry. I don't understand
7 your question.

8 MR. ROSENTHAL: Q. Other than the two items
9 you've identified as being not correct in the
10 declaration, are there any other items that are not
11 correct as you sit here today?

12 MS. MAJD: Same objections.

13 THE WITNESS: Perhaps also on that same page
14 PLTF 02011, paragraph seven, I believe it was more so
15 instead of 35 to 40 students, it was 30 or 35 students.

16 MR. ROSENTHAL: Q. Okay. Just as an
17 example, I'm going to point you to -- since we're
18 looking at paragraph seven, if you can take a quick
19 look at that again. In paragraph seven, you say in the
20 first sentence "Balboa is overcrowded."

21 Is it your belief that Balboa continues to
22 be overcrowded even today?

23 MS. MAJD: Objection. Vague and calls for
24 speculation.

25 THE WITNESS: No. At the time, I felt

1 would like to ask you a few questions about. I would
2 like to first focus your attention on paragraph three
3 which deals with situations in which you had classes
4 taught by substitute teachers at Balboa and this
5 paragraph continues over to the second page as well.
6 In the first few sentences of the paragraph, you talk
7 about your advanced algebra class. Is that the same
8 class that we -- same class you had during your, I
9 believe it was --

10 A. Junior year.

11 Q. -- junior year that we discussed earlier
12 today?

13 A. Correct.

14 Q. That was the class where you started with

15 [REDACTED] and Mr. Yuen.

16 Q. Right. Thank you.

17 A. Yes.

18 Q. You say on line 15 of that paragraph that,
19 quote, "Having three different teachers in one year
20 slowed us down; we did not get as far in the textbook
21 as we should have."

22 Can you explain to me what you meant by
23 that?

24 A. I meant as far as other classes or other

1 math classes, we were -- our class was behind in the
2 material in which we were learning because I think the
3 lack of textbooks prevented the students from really
4 going at a well enough pace to be on par with another
5 -- many of the other math classes that were at Balboa.

6 Q. Do you know whether the other classes at
7 Balboa had enough copies of the textbook for all of
8 their students?

9 MS. MAJD: Calls for speculation.

10 THE WITNESS: I do not know.

11 MR. ROSENTHAL: Q. Other than the shortage
12 of textbooks causing your class to be behind other
13 classes, were there any other reasons that your class
14 was behind the other classes?

15 MS. MAJD: Calls for speculation and
16 misstates his testimony, I believe.

17 THE WITNESS: I feel that the instability of
18 having different teachers coming in instead of having
19 one teacher from the beginning of the school year to
20 the end of the school year really had an impact on the
21 students learning because it was as if, in my opinion,
22 many other students' opinion, "What is going on? Why
23 do we have these subs? Why can't we have one teacher
24 from the beginning of the year to the end of the year?"

25 And many students would get upset and I

1 MS. MAJD: Calls for speculation.

2 THE WITNESS: No, I do not.

3 MR. ROSENTHAL: Q. So what is the basis for
4 the statement that your class didn't get as far in the
5 textbook as you should have?

6 A. Well, my understanding is talking to other
7 people and hearing like what they were doing in their
8 class and saying like, "Oh, we haven't even covered
9 that yet."

10 And they would be like -- and the current
11 things that we would be working on, they would be like,
12 "You guys are just starting on that? We did that a
13 month ago. Your class must be really behind," or
14 something like that.

15 Q. Do you know whether the advanced algebra
16 classes at Balboa taught the subject matter in the same
17 order of topics that your class taught?

18 MS. MAJD: Calls for speculation.

19 THE WITNESS: No, I do not.

20 MR. ROSENTHAL: Q. Other than hearing that
21 students were learning other materials in advanced
22 algebra than what your class was learning, was there
23 any other basis for the statement that you did not get
24 as far in the textbook as you should have.

25 MS. MAJD: That misstates his testimony. He

1 think it affected them as regards to coming to class
2 and perhaps maybe even go as far as to say as doing the
3 work because sometimes the photocopy would be of poor
4 quality and they would tell the teacher, "How can you
5 expect us to do this when the copy machine gives this
6 dark paper? You can barely see a few problems on
7 here."

8 MR. ROSENTHAL: Q. Was there -- strike
9 that.

10 When your class fell behind other advanced
11 algebra classes at Balboa, was that during a time
12 period when one particular teacher was teaching the
13 class?

14 MS. MAJD: Calls for speculation.

15 THE WITNESS: I do not know.

16 MR. ROSENTHAL: Q. Do you recall
17 approximately how far behind your class was relative to
18 the other advanced algebra classes at Balboa?

19 MS. MAJD: Calls for speculation.

20 THE WITNESS: No, I do not.

21 MR. ROSENTHAL: Q. You say in the end of
22 that sentence that your class did not get as far in the
23 textbook as you should have. Do you have an
24 understanding as to how far you should have gotten in
25 the textbook?

1 said other students had learned -- were ahead of them
2 in class, not they learned different material.

3 MR. ROSENTHAL: I think that misstates his
4 testimony, but the record will speak for itself.

5 THE WITNESS: I've already stated from
6 talking to other people and from their saying, "You
7 guys are just starting on that?" So that is an
8 indication that they have previously done that already
9 and they are also taking the same course advanced
10 algebra, so that in itself is saying that we're behind.
11 If they're here and we're here, there is a problem.

12 MR. ROSENTHAL: Q. I don't want to belabor
13 this, do you know -- I think you testified earlier that
14 you didn't know whether the other classes taught the
15 subject matter in the same order as your class did;
16 isn't that right?

17 MS. MAJD: Asked and answered.

18 THE WITNESS: Yes.

19 MR. ROSENTHAL: Q. Do you know whether
20 other advanced algebra classes at Balboa made it
21 through the entire textbook?

22 A. I do not know.

23 Q. Did your class make it through the entire
24 textbook?

25 A. No, we did not.

1 Q. Do you recall how much of the textbook your
2 class did not cover?
3 A. I would estimate and say we, perhaps, made
4 it to 40 to 45 percent of the entire textbook.
5 Q. Do you know whether your class was supposed
6 to cover that entire textbook in that one year?
7 A. No, I do not.
8 Q. Do you know how much of the textbook your
9 class was supposed to cover during that year?
10 MS. MAJD: Calls for speculation.
11 THE WITNESS: No, I do not.
12 MR. ROSENTHAL: Q. Okay. In roughly the
13 second half of paragraph three, you discuss the Spanish
14 class you had during your sophomore year and we spent
15 some time earlier today discussing a Spanish class in
16 which Mr. Miller started out as your teacher and
17 subsequently Mr. Robinson and some other substitutes
18 taught the class until Mr. Robinson returned and taught
19 the class for the remainder of the school year. Is
20 that the same class you are referring to in paragraph
21 three?
22 A. Yes.
23 Q. Towards the bottom of the page, on line 22,
24 you state, quote, "Each substitute would start teaching
25 us material without regard to what the prior teacher

1 had taught us." And you go on to say, quote, "One
2 substitute would try to teach us material we had
3 already learned in the beginning of the year; another
4 would teach us lessons that were too advanced for us."
5 Can you give me an example of how teachers
6 would teach you materials without regard to what was
7 done prior?
8 A. For example, I believe the female substitute
9 that was there for a few days, and she really was
10 fluent in the language, but the type of material, the
11 homework she had given us that first day, like I would
12 go as far as to say only if you were a native Spanish
13 speaker and spoke it fluently, you could understand
14 what she is saying because the homework she had given
15 us the one day she did for the few days she was there,
16 no one really knew like what was this. We're like, we
17 never even talked about anything like this before.
18 Q. So was she an example of somebody who gave
19 you work that was too advanced for the class?
20 A. Right.
21 Q. If you could turn the page, we're still in
22 paragraph three. In the first sentence contained on
23 this page you talk about complaints made to the
24 principal about the teaching situation. Were you
25 referring to the Spanish class in this sentence?

1 A. Yes.
2 Q. Can you tell me the details of the
3 complaints that you are aware of?
4 A. From what I'm aware of, after Mr. Miller was
5 no longer there, the first time we had Mr. Robinson, I
6 believe a few of the seniors at that particular time
7 had asked Mr. Robinson what was he doing there because
8 many of the seniors, including -- well, at that time, I
9 was a sophomore at that time and I knew Mr. Robinson
10 because he had substituted at my middle school before,
11 so he knew me by first name. And I asked him, "What
12 are you doing here, Mr. Robinson? Where is Mr.
13 Miller?"
14 He responded like, "I don't know."
15 We're like, "Are you going to be our
16 teacher?"
17 And he was like, "Yeah."
18 And we're like, "Okay." Because a lot of
19 students like Mr. Robinson. He is pretty popular.
20 Then when he was gone and our principal Ms.
21 Patricia Gray had told the class, "This is your teacher
22 here."
23 And then many of the students were saying
24 like, "How do you expect us to learn and to fulfill our
25 graduation requirements for foreign language when we

1 cannot have a teacher who will sit here that we" --
2 "that we, as the students, feel is dependable?"
3 And then after Mr. Robinson and the first
4 substitute left and then I can't remember the student's
5 name, she was a senior at the time, and she was saying,
6 "This is unfair. You know, I'm going to tell my mom"
7 -- I believe she said her mom or her dad -- "About this
8 they are going to have a conference with Ms. Gray
9 because I'm a senior and I need this class to
10 graduate."
11 And from my understanding they had a
12 conference with Ms. Gray, our principal, and she came
13 and told the class that they were -- she was doing the
14 best that she could to find a permanent teacher that
15 would be there for the rest of the year and when the
16 students would ask her like, "Where is Mr. Miller," all
17 she would tell us is "I cannot comment."
18 That left students kind of in the dark and
19 we didn't know what is going on.
20 Q. A little bit further on in the paragraph,
21 you say that in the situation with regard to the
22 substitute Spanish teachers, it caused problems for
23 some of the seniors in the class. Can you describe for
24 me the problems that it caused?
25 A. Some of the problems that were caused was

1 mainly due to the classwork and as far as the grade,
 2 the grade the student would receive in the class and
 3 whether or not the substitute had their work that they
 4 had been doing and turning in because after Mr.
 5 Robinson did a little bit of the work, we would turn it
 6 in to him and he is not there no more and the new sub
 7 is there and then I believe it was during progress
 8 report time period when the teacher would call the
 9 students up and show them their grades and some
 10 students were saying like, "How could I have an
 11 incomplete?" Or "How did I get this grade? I've been
 12 doing my work. I'm [REDACTED] student. I've had [REDACTED] for
 13 the entire year. Mr. Miller gave me a [REDACTED]. I did all
 14 the work when he was here."

15 I think it caused problems with them and I
 16 think that with the combination being towards the end
 17 of the school year and graduation time for them, there
 18 was uncertainty as to whether or not they would receive
 19 their foreign language requirements and whether or not
 20 they would even graduate.

21 Q. Do you remember any instances in which any
 22 seniors did not graduate as a result of difficulties in
 23 obtaining a grade in this class?

24 MS. MAJD: Calls for speculation.

25 MR. ROSENTHAL: Q. To the extent you know.

1 Q. Do you know who Ms. Jones is?

2 A. I know of her. I've seen her when she went
 3 to Balboa, yes. I don't know her personally regarding
 4 a friendship or anything, no.

5 Q. Did you ever have her in any of your
 6 classes?

7 A. No.

8 Q. Now, you said in -- around the time of
 9 progress reports when there was substitute teachers in
 10 the Spanish class, some students received -- they were
 11 told they were going to receive an incomplete grade --

12 A. Correct.

13 Q. -- is that right? Were you told that you
 14 were going to receive an incomplete grade?

15 A. No.

16 Q. Were you told what grade you would receive?

17 A. Yes.

18 MS. MAJD: It is vague as to time.

19 MR. ROSENTHAL: Q. Do you remember what the
 20 grade was that you were told you were going to receive
 21 on that progress report?

22 A. [REDACTED]

23 Q. Do you have an understanding as to why you
 24 were to receive [REDACTED] in that class and other students
 25 were receiving incompletes?

1 A. I don't know.

2 Q. Do you know whether one of the students
 3 who -- strike that.

4 You identified one individual student who
 5 made some complaints regarding the situation in your
 6 Spanish class. Do you recall whether that student was
 7 Alondra Jones?

8 MS. MAJD: When you say "Situation in the
 9 Spanish class," are you talking about the constant
 10 change in teachers that is quoted at the top of the
 11 page?

12 THE WITNESS: Can you repeat the question?

13 MR. ROSENTHAL: Sure.

14 Q. You said that -- you described for me in
 15 greater detail one female student who you said was a
 16 senior --

17 A. Correct.

18 Q. -- who was in your Spanish class --

19 A. Correct.

20 Q. -- that complained about with respect to the
 21 change of teachers in the Spanish class. Do you recall
 22 whether that student was a student named Alondra Jones?

23 A. No, it was not Alondra.

24 Q. Was she in your class during that semester?

25 A. No.

1 MS. MAJD: Calls for speculation and vague
 2 as to time.

3 THE WITNESS: No, I do not.

4 MR. ROSENTHAL: Q. Do you know the names of
 5 any individuals in that Spanish class who were A
 6 students who received incompletes?

7 MS. MAJD: Calls for speculation.

8 THE WITNESS: No, the one girl in particular
 9 that I was talking about, I don't know her by name, but
 10 I do know that she ended up graduating because I
 11 believe currently she attends San Francisco State
 12 University, but I cannot remember her name.

13 MR. ROSENTHAL: Q. I'm going to ask you to
 14 take a look at paragraph four in your declaration which
 15 deals with teachers leaving Balboa.

16 A. Okay.

17 Q. And we haven't spent a lot of time on that.
 18 You identify in the second sentence of that paragraph
 19 nine or ten teachers or you state nine or ten teachers
 20 that you've had in the first three years that you
 21 attended Balboa have left the school. Using your
 22 transcript, if that helps, can you identify the nine or
 23 ten teachers who you are referring to?

24 A. Sure. Some of them are not listed on here,
 25 but --

1 Q. Why don't you tell me the ones you can find
2 that are listed on here and we can cover the other
3 ones.
4 A. Mr. Streeter, Mr. Alexander, Mr. Navarro,
5 [REDACTED] Ms. Cusigch, Mr. McBride, Mr. Nathan, Mr.
6 Miller, [REDACTED], Ms. Safir. I believe that is
7 all.
8 MS. MAJD: That is all of the ones that are
9 listed on the exhibit?
10 THE WITNESS: Those are all.
11 MR. ROSENTHAL: Q. I think some of them you
12 named were not on the exhibit; is that right?
13 A. Yes, such as Mr. Nathan, he is not on the
14 exhibit.
15 Q. I thought I was losing my mind. I didn't
16 see a Nathan on the transcript.
17 You've given me a list of ten names. Are
18 there any other teachers that you have had over your
19 three-plus years at Balboa High School that have left
20 the school?
21 MS. MAJD: Calls for speculation.
22 MR. ROSENTHAL: Q. Whether or not they are
23 listed on the transcript.
24 A. Well, here, student aide, another teacher, I
25 don't know why this name is here Manalang, but that was

1 Q. When did you learn she would be not be
2 teaching at Balboa this year?
3 A. She told us before the school year was out.
4 Q. So when you signed this declaration and you
5 said there were nine or ten teachers who have left the
6 school, were you including Ms. Safir in those nine or
7 ten at that time?
8 A. Yes, I was.
9 Q. Were there any teachers who you did not
10 include that you've learned did not return to Balboa
11 since the day you signed the declaration?
12 A. The last teacher, Ms. Bamberg, she was my
13 student aide teacher and I just -- when I passed by her
14 former class this year, I learned she is no longer
15 there.
16 Q. Are there any other teachers that you've had
17 that have not returned to Balboa this year that you
18 didn't learn of until after you signed your
19 declaration?
20 A. No.
21 Q. Okay.
22 MS. MAJD: Calls for speculation.
23 MR. ROSENTHAL: Q. In the third sentence of
24 paragraph four, you say you keep in touch with some of
25 the teachers who have left Balboa. Can you tell me

1 not the teacher's name. What I have for student aide
2 is Ms. Bamberg, B-a-m-b-e-r-g, and she is no longer
3 teaching.
4 Q. Just so I'm clear, when you signed this
5 declaration, it was before the start of school for the
6 2001/2002 school year?
7 A. Yes.
8 Q. And when you gave me the list of names of
9 teachers who are no longer at Balboa, did you give me
10 the names of teachers who you learned were not at
11 Balboa anymore after that date? Do you understand what
12 I'm asking you?
13 A. Sorry. Let me get this straight. Are you
14 asking me did I learn of any teachers who would not be
15 at Balboa this physical school year after August 1st,
16 2001?
17 Q. Right.
18 MS. MAJD: Is that what you are asking, any
19 teachers? I thought you were asking about this
20 particular list.
21 MR. ROSENTHAL: Let me try it this way:
22 Q. Was Ms. Safir a teacher at Balboa last year?
23 A. Yes, she was last school year.
24 Q. Is she not a teacher this school year?
25 A. No, she is not a teacher.

1 which teachers you keep in touch with?
2 A. Not on a regular basis, but I have spoken
3 with Ms. Safir and [REDACTED] I saw him over the
4 summer and talked to him a little bit.
5 Q. Are those the only two you've kept in touch
6 with?
7 A. That I can recall, yes.
8 Q. And did Ms. Safir tell you why she left
9 Balboa?
10 A. She didn't specifically say, but she told us
11 she was -- she told our class before the year was out
12 that she would not return and that she was starting her
13 own school with another fellow teacher I mentioned on
14 there.
15 Q. Who was the other teacher?
16 A. That I'm aware of, it was Mr. Alexander.
17 Q. Do you know why [REDACTED] left Balboa?
18 A. No, I do not.
19 MS. MAJD: Calls for speculation.
20 MR. ROSENTHAL: Q. Did he ever tell you
21 why?
22 A. No, he did not.
23 Q. Have you ever heard why he left Balboa?
24 A. I've heard different things, but nothing
25 concrete like a specific answer from him or from the

1 principal.
 2 Q. Can you tell me what you've heard?
 3 A. But from the students.
 4 Q. Can you tell me what you've heard?
 5 A. From what I've heard, after the year I had
 6 him, which -- sorry, my freshman year and sophomore
 7 year when we went back to school and the students went
 8 to pass by his class to say hello to him in the
 9 beginning of the school year, but another teacher was
 10 in there and we were like, "Where is [REDACTED]"
 11 We thought maybe he went to a different
 12 classroom or something, so we went around looking.
 13 "You guys don't know? [REDACTED] doesn't
 14 teach here anymore."
 15 And we're like, "Why?"
 16 And he is like, "Oh, you guys didn't hear?"
 17 And it was like something like the
 18 administration said something as regards to him not
 19 having a some kind of document that he needed to
 20 provide on time and that is all I know.
 21 Q. Okay. In paragraph four, you say that the
 22 teachers -- strike that.
 23 In the third paragraph, you say that some of
 24 the teachers who you keep in touch with --
 25 MS. MAJD: Fourth paragraph.

1 the beginning of the year, he was going to finish this
 2 year out and he wasn't going to be back and he really
 3 -- at the time, didn't really get into much detail as
 4 to why, but like you can see, like, on his face like
 5 during sometimes in class, like he would try to teach
 6 the class something and sometimes he would get
 7 frustrated. Instead of yelling or getting angry, he
 8 would sit there and like -- you know, put his hands
 9 like this over his head and you can kind of see, like
 10 it was, you could say the job was wearing him down, so
 11 to speak, and he was getting stressed out.
 12 Q. Were you finished with your answer?
 13 A. Yes.
 14 Q. Just so the record is clear, so did any
 15 teacher ever tell you that the reason they were leaving
 16 Balboa was because it was too stressful?
 17 A. No, but --
 18 Q. You can add something, if you like.
 19 A. [REDACTED] one time we were in class,
 20 [REDACTED] class. This is my sophomore year. One
 21 particular day in class, the students were not
 22 listening to him and he was really trying hard to
 23 explain something and get something across to the class
 24 and like I remember hearing him saying something along
 25 the lines of "They don't pay me enough to put up with

1 MR. ROSENTHAL: Fourth paragraph.
 2 MS. MAJD: You said third.
 3 MR. ROSENTHAL: Q. In the fourth paragraph,
 4 third sentence, you say that some of the teachers who
 5 you keep in touch with told you some of the reasons why
 6 teachers have left the school. Do you know whether Ms.
 7 Safir or [REDACTED] told you his reasons?
 8 MS. MAJD: That misstates the actual
 9 sentence the way it is written.
 10 THE WITNESS: From what I understand, like I
 11 said, I really don't know [REDACTED] situation, but
 12 Ms. Safir, she also stated -- she told the class that
 13 she was starting her own school, so the class was
 14 asking her, "Why are you leaving?"
 15 And all she would really get into great
 16 detail is to say. "I'm starting my own school."
 17 So we made our own -- how can you say?
 18 Logical reasons as to why.
 19 MR. ROSENTHAL: Q. Did Ms. Safir ever tell
 20 you that she or any other teacher was leaving Balboa
 21 because it was too stressful?
 22 A. No, but [REDACTED] we kind of got that
 23 feeling because when I had him the end of my sophomore
 24 year, he like told us -- I think, I can't recall. I
 25 don't want to specifically state, but I think it was

1 this." And subsequently, obviously, he didn't. After
 2 that year was up, he was no longer there.
 3 Q. Other than that instance, do you recall
 4 hearing of any -- hearing that any teacher had left
 5 Balboa because they were not being paid enough?
 6 A. No.
 7 Q. Do you recall hearing any instance that any
 8 teacher left Balboa because, as you state in the end of
 9 paragraph four, that the administration was not doing
 10 enough to improve the school?
 11 A. As far as teachers saying specifically to us
 12 like Ms. Safir saying, "I'm leaving because the school
 13 is not doing enough," no, but some of the students were
 14 like saying how -- you know, why like when you have all
 15 these students that really like you as a teacher,
 16 really enjoy your class, why would you leave to start
 17 your own school? Many of the students' thinking as to
 18 why a student would leave and why in general teachers
 19 at Balboa leave in the first place -- you know, because
 20 Balboa's teachers tend to have a turnover rate, so many
 21 students inferred as saying she is probably starting
 22 her own school because Balboa is not, or the
 23 administration is not doing enough overall to improve
 24 the school and she, perhaps, is fed up with it.
 25 Q. And, again, just so the record is clear, so

1 you don't recall any teachers saying any particular
2 teacher left Balboa because the administration was not
3 doing enough to improve the school?

4 A. No.

5 Q. Okay. I would ask you to take a look at
6 paragraph five and that deals with the textbooks you
7 had in connection with your advanced algebra class. Is
8 that the same advanced algebra class that you testified
9 about earlier today?

10 A. Yes.

11 Q. Just so I'm clear with names, if you look
12 beginning on line 20 of paragraph five, it refers to a
13 third teacher in the advanced algebra class. Was that
14 Mr. Yuen you are referring to?

15 MS. MAJD: It is line 21.

16 MR. ROSENTHAL: Yes, it carries over to line
17 21.

18 THE WITNESS: Yes, Mr. Yuen.

19 MR. ROSENTHAL: Q. And that is, as you say,
20 he was surprised that the class did not have enough
21 books. Can you tell me what the basis for that
22 statement is?

23 A. When he came into the class the first day, I
24 can recall him saying, "Okay, class. Take out your
25 books."

1 additional books for the class?

2 A. I would go as far as to say perhaps they
3 came at the end of March 2001, maybe middle to late
4 April, I would approximately say.

5 Q. On line 22 and 23 of that sentence, you say
6 there were three or four students who did not have
7 books throughout the entire year. Did you mean by that
8 statement that three or four students did not have
9 their own copy of a book in that class for the entire
10 year?

11 A. To take home and bring back to school, yes.

12 Q. Were the other students in the class allowed
13 to take their books home with them?

14 A. No. Originally when we had [REDACTED]
15 some of the times we didn't need to take the books home
16 and since there was a class set, they remained in the
17 class and we did classwork and he said or he wrote
18 problems on the black board. We copied it down on a
19 separate piece of paper. And then transferring to [REDACTED]
20 [REDACTED] the students were allowed to get books to take
21 to his class which we were to use for the rest of the
22 year and some of the students had books, were fortunate
23 enough to get books, although poor condition, and some
24 of the students did not have any books.

25 Q. Just so I'm clear, for the students who did

1 And some of the students responded back then
2 by saying, "What books?"

3 And then he proceeded to say, "What do you
4 mean, 'what books?'"

5 And they were like, "We don't have any
6 books."

7 And then he had a surprised look on his face
8 and he said, "What do you guys mean, you don't have
9 books? You are supposed to have books." And then he
10 said, "Didn't your previous teacher ever supply the
11 class with a book?"

12 And the students said, "Yeah, some of the
13 students in class have books. Some of us don't, so we
14 have to share books when we're doing classwork or rely
15 on photocopy handouts or copy down the work from off
16 the board."

17 So that is where the surprise comes from.

18 Q. In the next sentence, you say that Mr. Yuen
19 was able to find some additional books. Do you recall
20 what efforts he undertook to obtain additional books?

21 MS. MAJD: Calls for speculation.

22 THE WITNESS: No, I do not.

23 MR. ROSENTHAL: Q. Also in that sentence,
24 you say that there were three or four -- strike that.

25 Do you remember when Mr. Yuen obtained

1 have books, were they allowed to take their books home
2 with them?

3 A. Yes.

4 MS. MAJD: Asked and answered. We've been
5 through this already.

6 MR. ROSENTHAL: Q. Of those three or four
7 students who did not have their own copies of the book
8 in class or to take home, did those students share
9 books during class?

10 MS. MAJD: Calls for speculation.

11 MR. ROSENTHAL: Q. To the extent you know.

12 A. Yes.

13 Q. On lines 23 and 24, you talk about
14 photocopied handouts that were used in connection with
15 the math class and you say sometimes they were of poor
16 quality and I think you've touched a little bit on that
17 today. Can you tell me what you are referring to when
18 you say the handouts are of poor quality?

19 A. What I mean is sometimes when the teacher,
20 whoever that be, [REDACTED] when we had him or Mr. Yuen
21 when we had him, had photocopied the handouts.
22 Sometimes when they would use the book to make copies,
23 it would come out in poor quality. What I mean by poor
24 quality, it was either too dark or a part of the packet
25 was too dark and you cannot see the problems, so it was

1 not clear, therefore many of the students were unable
2 to use the problems or sometimes it was too light and
3 they really had to squint -- you know, use their eyes
4 to really see what the problem was saying.

5 Q. Do you recall on how many occasions the
6 photocopies that were handed out were of poor quality?

7 MS. MAJD: Calls for speculation.

8 MR. ROSENTHAL: Q. To the extent you know.

9 A. No, I do not remember.

10 Q. Did you personally ever get any of the
11 handouts that were used in this class?

12 A. I remember one time, yes, because it was an
13 assignment where it was not book related, like as far
14 as the textbook and a group of us, we were going on a
15 college tour trip, so we would not be in school for a
16 few days, so he said, "You guys" -- Mr. Yuen states
17 this, said, "You guys are not going to be here for like
18 five days. Here, I prepared a packet for you." And it
19 was like the day before we were leaving or before we
20 were going on our trip, so there is that one instance.

21 Q. Was that copy of materials in usable quality
22 you received?

23 MS. MAJD: Vague.

24 THE WITNESS: For the most part, yes, but
25 there were different parts in there that were not

1 declaration, you say that students would often complain
2 about not having books. Are you referring to the
3 advanced algebra class or are you referring to other
4 classes?

5 A. The advanced algebra class.

6 Q. Do you recall what students would complain
7 about it?

8 A. They would say how not having books would
9 really affect their learning because some of the
10 material they did not understand and I believe it
11 required a textbook to -- for you or for them because
12 perhaps they worked at different paces. Maybe they
13 were not as advanced as some of the other students, so
14 in needing to refer to an example of how to do a
15 problem, they were unable to due to not having
16 textbooks.

17 Q. Do you know the grades of any of the
18 students for advanced algebra for students who did not
19 have their own copy of the textbook?

20 MS. MAJD: Calls for speculation.

21 THE WITNESS: I do not know.

22 MR. ROSENTHAL: Can we go off for a second?

23 (Recess taken.)

24 MR. ROSENTHAL: Q. I would like to direct
25 your attention to paragraph six in your declaration

1 clear.

2 MR. ROSENTHAL: Q. In the last sentence on
3 paragraph five that starts on the second page and
4 carries over into the third page, you said that the
5 copy machine would break down on occasion. Do you
6 recall how frequently that occurred in connection with
7 this class?

8 MS. MAJD: Calls for speculation.

9 THE WITNESS: I can approximately say the
10 copy machine did not function properly about three
11 times.

12 MR. ROSENTHAL: Q. Is that three times
13 during the year?

14 A. No, I would say three times with Mr. Yuen as
15 the teacher. In regards to the whole year, I do not
16 recall.

17 Q. Okay. And the roughly three instances in
18 which Mr. Yuen was not able to make copies, were those
19 the instances in which rather than handing out
20 materials, Mr. Yuen had the class copy down the
21 materials?

22 A. Yes; the students that were unable to get
23 photocopy packets, yes.

24 Q. And the last sentence in paragraph five,
25 which is on the top of the third page of your

1 now. In the first sentence, you state, quote, "The
2 facilities at Balboa are horrible."

3 When you use the word "Facilities" in that
4 sentence, were you referring exclusively to the
5 bathrooms at Balboa?

6 A. Referring to the specific bathrooms of
7 the -- in the yard, yes.

8 Q. Were you just referring to that one
9 particular bathroom?

10 A. Yes.

11 Q. Is that true for the remainder of the
12 paragraph as well?

13 MS. MAJD: Take a moment to read it.

14 MR. ROSENTHAL: Yes, feel free to read it.

15 THE WITNESS: Yes, it is not exclusively.

16 For the most part, it is talking about the yard
17 bathroom, but as regards to the graffiti on the walls,
18 it is also talking about my sophomore year when I used
19 the third floor bathroom.

20 MR. ROSENTHAL: Q. Those are the instances
21 of graffiti that you testified about earlier today on
22 the third floor bathroom?

23 A. Right.

24 Q. Does the remainder of the paragraph, with
25 the exception of the last sentence in that paragraph,

1 refer only to the yard bathroom?
 2 A. Yes.
 3 Q. Do you know whether the yard bathroom at
 4 Balboa becomes dirty as a result of students using
 5 them?
 6 MS. MAJD: Calls for speculation.
 7 THE WITNESS: I do not know.
 8 MR. ROSENTHAL: Q. Have you ever seen any
 9 students mess up any of the bathrooms?
 10 MS. MAJD: Vague. Calls for speculation.
 11 THE WITNESS: Physically see, no.
 12 MR. ROSENTHAL: Q. Did you ever hear that
 13 any students had in any way messed up the bathrooms?
 14 A. No.
 15 MS. MAJD: Vague.
 16 MR. ROSENTHAL: Q. Just so I'm clear, is it
 17 your testimony, as it is stated in the declaration,
 18 that you believe the administration at Balboa hasn't
 19 given the students a chance to keep the bathrooms at
 20 the school clean?
 21 MS. MAJD: Calls for speculation and vague
 22 as to time.
 23 THE WITNESS: Are you referring to all my
 24 four years there or this year?
 25 MR. ROSENTHAL: Q. Over the entire time

1 period, right.
 2 A. I feel that statement was really more so as
 3 my junior year there because my freshman year, we had a
 4 different principal than we do currently have and I
 5 believe the principal we have now, she is a really
 6 great principal, but like during the senior home room
 7 meeting, I can recall this year when someone said, "Ms.
 8 Gray, what are you going to do to fix the quad
 9 bathroom? We should not have to go to a bathroom like
 10 that."
 11 And she responded as to say, "It is the
 12 students' responsibility to keep the bathrooms clean."
 13 And I believe that is unfair if generally
 14 the quad bathroom is never clean as far as having all
 15 the materials at the same time, no urine or mud on the
 16 floor, no graffiti completely, so without having that
 17 -- you know, the bathrooms never clean, so how can she
 18 expect the students to keep something that is dirty
 19 clean.
 20 Q. Do you remember Ms. Gray saying at that time
 21 that the bathrooms were cleaned by janitors on a
 22 regular basis and that it was the students'
 23 responsibility to keep the bathrooms clean after they
 24 were cleaned by the janitors?
 25 MS. MAJD: Objection. Compound.

1 THE WITNESS: I cannot recall.
 2 MR. ROSENTHAL: Q. Did you think Ms. Gray
 3 meant that students should actually do the cleaning in
 4 the bathrooms?
 5 MS. MAJD: Objection. Calls for
 6 speculation.
 7 THE WITNESS: My understanding of that was
 8 no, she didn't want us to physically clean the
 9 bathrooms as our job, but when the bathrooms were
 10 cleaned, to maintain them and keep them clean, but it
 11 is as if to say the bathrooms -- the bathroom, in
 12 particular the yard bathroom, was already in clean
 13 condition when it is obviously not and she doesn't have
 14 to use those bathrooms because she has a principal
 15 bathroom, which, in my estimation, would most likely
 16 always be stocked with all the proper things and clean,
 17 so she can't really say as to keep it clean when she
 18 doesn't have to use it every day.
 19 MR. ROSENTHAL: Q. Have you ever been in
 20 the principal's bathroom?
 21 A. No.
 22 Q. I would like to turn your attention to
 23 paragraph seven in your declaration.
 24 A. Sure.
 25 Q. Now, previously we talked about your Spanish

1 classes during your freshman and sophomore years and
 2 you refer to those classes here. Are those the same
 3 classes?
 4 A. Yes, they are.
 5 Q. In the third sentence of that paragraph, you
 6 say that the number of students in the class slowed
 7 down the learning process. Can you explain to me how
 8 that happened, in your opinion?
 9 MS. MAJD: That is not a direct quote.
 10 MR. ROSENTHAL: That is not, right.
 11 THE WITNESS: With regards to my freshman
 12 year, I believe that the amount of students we had in
 13 Ms. Cusigch's class was 30 to 35 and I believe that
 14 having -- whenever you have that large amount of
 15 students, there is going to be situations that come up
 16 where there are students who are not there taking the
 17 class seriously and wanting to work and that makes it
 18 harder on the majority of the class who is there to
 19 work and really wants to learn, so like I'm in favor of
 20 smaller classes. You get the best learning opportunity
 21 for students.
 22 MR. ROSENTHAL: Q. Do you have an opinion
 23 as to what is the number of students that you think is
 24 an appropriate amount for students to get the most out
 25 of a class?

1 MS. MAJD: Calls for expert testimony. You
2 can answer as to your opinion.

3 THE WITNESS: In my opinion or if I had my
4 way, I would have maybe 20 students maximum in the
5 classroom.

6 MR. ROSENTHAL: Q. And just so we're clear,
7 I know you made this clarification earlier. You said
8 paragraph seven where it says there were between 35 and
9 40 students, what you meant was between 30 and 35?

10 A. More so 30 to 35 students.

11 Q. Is that true for each of the classes you had
12 in freshman year and sophomore year?

13 A. Yes.

14 MS. MAJD: For Spanish classes?

15 THE WITNESS: For Spanish classes, yes.

16 MR. ROSENTHAL: Q. If you go on to the next
17 sentence in paragraph seven, you say that your class
18 learned, quote, "Much less," closed quote, than
19 students in other classes -- other Spanish classes at
20 Balboa. Can you tell me what the basis for that
21 statement is?

22 A. That was the basis for my freshman year
23 Spanish class taught by Ms. Cusigch because she taught
24 other classes than ours which were a lot smaller,
25 because I passed by one of her classes and it was a lot

1 Spanish textbook than your class?

2 MS. MAJD: Calls for speculation.

3 THE WITNESS: No, I do not.

4 MR. ROSENTHAL: Q. In the next sentence
5 that starts on line 17, you talk about the JROTC class.
6 Is that the class you were in for roughly a week we
7 discussed earlier today?

8 A. Yes.

9 Q. And you say with regard to that class that
10 some students had to stand in the beginning -- stand in
11 the back of the class at the beginning of the school
12 year.

13 A. Yeah, at the time period I was there, yes.

14 Q. Do you know whether students had to stand in
15 the class after the time you left the class?

16 A. No, I do not.

17 Q. Did you ever hear that that was the case?

18 A. No, I did not hear.

19 Q. Did you ever hear that all students had a
20 place to sit in that class after you left?

21 A. No, I did not.

22 Q. Do you recall how many students had to stand
23 in that class?

24 A. Roughly five to seven, five to eight
25 students.

1 smaller and looking from my eyes or my point of view,
2 seeing all the students like focusing on her and paying
3 attention, unlike our class at times where we had those
4 few small students who did not pay attention and did
5 not want to learn, like when I passed by and saw her
6 smaller classes and all the students paying attention,
7 listening to what she was saying and engaged in what
8 she was saying, I inferred as to saying this is how a
9 class should be. They are obviously learning
10 something.

11 Q. Do you know whether Ms. Cusigch's other
12 Spanish classes -- strike that.

13 In the testimony you just gave me, you were
14 talking about Ms. Cusigch's Spanish class. With regard
15 to the fourth sentence and fifth sentences in paragraph
16 seven, were you referring just to her class or were you
17 referring to your Spanish classes for both your
18 freshman and sophomore year? I'm pointing to the
19 sentence that begins on line 15 and the sentence that
20 follows. It goes to the beginning of line 17.

21 A. Yes, I was referring to Ms. Cusigch's
22 freshman, year Spanish class.

23 Q. Do you know whether Ms. Cusigch's Spanish
24 classes, the smaller classes that Ms. Cusigch taught,
25 do you know whether those classes got farther in the

1 Q. Was that true for the entire week that you
2 spent in that class?

3 A. Yes, but the particular students standing
4 varied from day to day the week that I was there.

5 Q. Do you recall there being any efforts
6 undertaken to get seats for those students?

7 MS. MAJD: Vague. Calls for speculation.

8 THE WITNESS: No, I do not.

9 MR. ROSENTHAL: Q. Do you know how many
10 students were transferred out of that class?

11 MS. MAJD: Assumes facts not in evidence.
12 Calls for speculation.

13 THE WITNESS: No, I do not know.

14 MR. ROSENTHAL: Q. Let me try it this way:
15 You left that class after about a week; is that right?

16 A. Correct.

17 Q. Do you know how many other students did the
18 same thing?

19 A. No.

20 Q. Do you know whether other students left the
21 class at all or were you the only one?

22 MS. MAJD: Compound.

23 THE WITNESS: I know there were other
24 students that left, yes.

25 MR. ROSENTHAL: Q. Okay. In the last

1 sentence of paragraph seven, you talk about -- you talk
2 about the lunch period. Is there more than one lunch
3 period at Balboa?

4 A. No, there is only one.

5 Q. So all students at Balboa eat lunch during
6 the same period?

7 A. Yes.

8 Q. I would like you to take a look at paragraph
9 eight. I know you've given me some clarifications as
10 to this paragraph as well. If you look at the first
11 sentence where you say, quote, "Twice since I've been a
12 at Balboa, I've seen mice."

13 Based on your testimony you've given to me
14 today, is it more accurate to say you've only seen mice
15 -- a mouse at the school once?

16 A. Physically, yes.

17 Q. And the remainder of that paragraph, you
18 identify the instances in which you saw or heard about
19 mice at Balboa. Are those the same instances we
20 discussed earlier today?

21 A. Yes.

22 Q. I would like you to take a look at paragraph
23 nine. This is a paragraph about water at the school
24 which is something we haven't discussed in any detail.
25 Can you tell me -- you say that teachers have said

1 MR. ROSENTHAL: Q. To the extent you know.

2 MS. MAJD: Expert testimony.

3 THE WITNESS: To the extent I know, yes.

4 MR. ROSENTHAL: Q. Do you recall how long
5 it was a problem during your sophomore year?

6 A. Roughly, approximately, I would say about
7 three months.

8 Q. Do you know whether any steps were taken to
9 fix whatever problems there were with the water, with
10 the pipes?

11 A. No.

12 Q. Do you know that steps were taken to fix the
13 problem?

14 A. I could assume there were steps taken
15 because I'm in my senior year now and people use the
16 fountains and there seems not to be a problem with the
17 students using fountains.

18 Q. Since your sophomore year, have any teachers
19 advised you not to use the fountains?

20 A. No.

21 Q. If you would take a look at paragraph ten of
22 your declaration, and I believe you offered a
23 correction to this paragraph as well. It is you were
24 referring to your tenth grade biology class.

25 A. Yeah, it was taught by the same teacher that

1 that, quote, "Water fountains are not safe because
2 there was a problem with the pipes or there is lead
3 poisoning."

4 Do you recall what teachers told you that?

5 A. No, I do not, but it is not currently a
6 problem, but it was over my course -- my three-plus
7 years now where I believe it was my sophomore year when
8 there was a problem with the pipes and the teachers
9 advised the students that they should not be drinking
10 the water and I also believe it was in the newspaper,
11 not mentioning our school in particular, but it maybe
12 said something about there's lead in the pipes in San
13 Francisco or schools or something along those lines and
14 the teachers advised us not to use the fountains.

15 Q. Was that a problem that was limited in time?

16 MS. MAJD: Vague.

17 MR. ROSENTHAL: Q. Do you understand the
18 question?

19 MS. MAJD: Calls for speculation.

20 THE WITNESS: Can you repeat it, please?

21 Clarify.

22 MR. ROSENTHAL: Q. Sure. Was it a problem
23 that was only for a period of time during your
24 sophomore year?

25 MS. MAJD: Calls for speculation.

1 taught me ninth grade integrated science.

2 Q. So is the information that is contained in
3 paragraph ten of your declaration referring to the
4 information you gave me today with respect to your
5 tenth grade biology class?

6 A. Correct.

7 Q. I'm going to ask you to take a look at
8 paragraph 11 of your declaration where you identify two
9 classes at Balboa where you had broken window shades
10 and I know you briefly mentioned that in two classes,
11 there was a shade -- one of the middle window shades
12 was broken in each of those classes; is that correct?

13 A. Correct, the middle shade was out in my
14 American literature class and US History, prelaw class.

15 Q. Were those in different physical classrooms?

16 A. Yes; two different classrooms, yes.

17 Q. Other than those two classrooms, did you
18 have any other classes at any time at Balboa where the
19 window shades were broken?

20 MS. MAJD: Calls for speculation.

21 THE WITNESS: Not that I can remember, no.

22 MR. ROSENTHAL: Q. If you can take a look
23 at paragraph 12 of your declaration --

24 A. Okay.

25 Q. -- which you'll be glad to hear is the last

1 numbered paragraph on your declaration. You've made
2 reference to this as well where you say that -- I'll
3 quote from your declaration -- "Balboa looks like a
4 jail."

5 And you testified earlier today that there
6 were bars and gates that surround Balboa; is that
7 right?

8 A. Currently there are. In the front entrance
9 of the school, there are gates that go around the
10 school, yes.

11 Q. Does it surround the entire school or just
12 the front of the school?

13 A. Around the entire school, the front
14 entrance, and also the side of the school, there is
15 gates as well.

16 Q. Is there any other reason why Balboa looks
17 like a jail, in your opinion?

18 A. In my opinion and many other students', as I
19 mentioned in my declaration, last year for Law Academy
20 assignment, we had to talk about the things that
21 imprisons us in society and use it metaphorically and
22 our teachers had asked some students like, "What do you
23 guys see prison as?"

24 Many of the students raised their hand and
25 said, "Balboa is a prison. Balboa is a prison," I

1 Did you ever hear from any other students
2 that red and burgundy were gang colors?

3 MS. MAJD: Vague.

4 THE WITNESS: Did I hear from other
5 students? Well, in the school area where we are, it is
6 located, I believe from my knowledge -- I don't really
7 know too much about gangs -- but there is a certain
8 part of San Francisco in the Mission, I believe, where
9 blue and red are seen as gang colors, yes.

10 MR. ROSENTHAL: Q. Did you have an
11 understanding as to whether the administration's policy
12 not allowing students to wear red and burgundy was
13 intended to protect the students?

14 MS. MAJD: Calls for speculation.

15 THE WITNESS: From my knowledge, I don't
16 understand it because it is not a policy that has been
17 there since I started freshman year. This policy was
18 just implemented my junior year, last year, so prior to
19 that, my sophomore and freshman year, it seemed to not
20 be a problem and many of the students were wondering
21 like why now, our eleventh grade here. At the time
22 last year they implemented this policy, we can't -- we
23 cannot wear red, or burgundy, or maroon, or any shade
24 along those color lines.

25 MR. ROSENTHAL: Q. Do you recall whether

1 should say.

2 And the teacher was, "What do you mean by
3 that? Can you elaborate? What do you mean, Balboa is
4 a prison?"

5 "Just look at the outside of our school.
6 They don't trust us. They have gates around. We
7 cannot wear red, burgundy, maroon, that shade of color
8 because our principal says the administration believes
9 it is a gang-related color and up until the start of
10 this year, we were not allowed off-campus lunch. We
11 had to stay on campus."

12 Q. Other than those reasons, are there any
13 other reasons that Balboa looked like or felt like a
14 prison to you or any other student?

15 A. Perhaps --

16 MS. MAJD: Calls for speculation.

17 MR. ROSENTHAL: Q. To the extent you know.

18 MS. MAJD: Go ahead.

19 THE WITNESS: Perhaps the fact we have to
20 have a security escort to take us to the bathroom and
21 bring us back to class.

22 MR. ROSENTHAL: Q. Any other reasons?

23 A. That I can recall, no.

24 Q. Did you ever hear that red and burgundy --
25 strike that.

1 the policy coincided with the hiring of Ms. Gray?

2 MS. MAJD: Calls for speculation.

3 MR. ROSENTHAL: Q. To the extent you know.

4 A. I don't know.

5 Q. When did Ms. Gray become principal at
6 Balboa?

7 MS. MAJD: Calls for speculation.

8 MR. ROSENTHAL: Q. To the extent you know.

9 A. To the extent I know, she became our
10 principal -- I really cannot recall because I'm
11 somewhat confused. I don't know if it was my sophomore
12 year or junior year. I cannot recall.

13 Q. Do you recall whether the policy regarding
14 wearing red and burgundy was implemented around the
15 time Ms. Gray became the school's principal?

16 MS. MAJD: Asked and answered.

17 THE WITNESS: I cannot recall.

18 MR. ROSENTHAL: Q. Okay. Do you have any
19 understanding as to what the purpose of that policy
20 was?

21 MS. MAJD: Calls for speculation.

22 THE WITNESS: No.

23 MR. ROSENTHAL: All right. Why don't we
24 take our last break here. I'll review my notes, we can
25 go off the record.

1 (Recess taken.)

2 MR. ROSENTHAL: Q. Mr. Lewis, you testified
3 earlier that in connection with your Spanish class
4 during your sophomore year that the class watched
5 movies on occasion when you had substitute teachers; is
6 that correct?

7 A. Yes.

8 Q. Were those movies that related to learning
9 the subject of Spanish or were they not related to that
10 subject?

11 A. Not related.

12 Q. Was that the only class in which you've
13 watched movies that did not relate to the subject
14 matter of the class?

15 MS. MAJD: Calls for speculation.

16 THE WITNESS: That I can recall, yes.

17 MR. ROSENTHAL: Q. Did you ever hear of any
18 other classes at Balboa in which students were shown
19 movies that did not relate to the subject matter of the
20 class?

21 A. I have heard on occasions that some teachers
22 showed movies that were nonpertaining to the subject,
23 noneducational movies.

24 Q. Do you recall whether those were substitute
25 teachers?

1 MR. ROSENTHAL: Sure.

2 Q. I'm trying to figure out if there are
3 particular classes in which movies like that were shown
4 on a daily basis, for example.

5 A. I do not know.

6 Q. Do you know whether those classes were shown
7 noneducational movies on days when the class's regular
8 teacher was absent?

9 MS. MAJD: Calls for speculation.

10 THE WITNESS: I do not know.

11 MR. ROSENTHAL: Q. Do you know whether
12 Balboa High School has any policy regarding the showing
13 of movies in class?

14 A. I do not know.

15 Q. Do you recall there being any problems with
16 birds in the gym?

17 MS. MAJD: Vague.

18 THE WITNESS: Birds? Problems as far as --
19 can you clarify, please?

20 MR. ROSENTHAL: Sure.

21 Q. Do you remember there being -- for example,
22 do you remember the gym floor having bird feces on it?

23 A. To my knowledge, I cannot remember, no.

24 Q. Did you ever hear that was the case?

25 A. No.

1 A. I do not know.

2 Q. Do you remember the names of any of the
3 teachers who showed such movies?

4 A. No.

5 Q. Do you know how many teachers showed such
6 movies?

7 A. No, I do not.

8 Q. Where did you hear that teachers had shown
9 movies like that?

10 A. A few instances I heard in the hallway.
11 Like I said, I don't remember the specific teacher, but
12 overhearing students say, "Oh, did you have" -- I can't
13 remember the class -- "such and such," like the name of
14 the teacher, I cannot remember.

15 And they were like, "Yeah."

16 And then the student relayed as to say like,
17 "What did you guys do today in class?"

18 And they would be like, "We watched the
19 Matrix," or other movies I can't remember the names.

20 Q. And did you hear that certain classes were
21 shown noneducational movies like that on a regular
22 basis?

23 MS. MAJD: Vague as to "Regular."

24 THE WITNESS: Can you clarify "Regular,"
25 please.

1 Q. Did you ever hear that there were broken
2 windows in the gym through which birds came in to the
3 gym?

4 MS. MAJD: Compound.

5 THE WITNESS: No, I do not remember.

6 MR. ROSENTHAL: Q. Do you recall there
7 being broken windows in the gym at any time you were a
8 student at Balboa?

9 A. I can recall there being a broken window, as
10 I stated earlier, in the gym locker room, boys' locker
11 room. As far as the upper level gym floor, I cannot
12 remember.

13 Q. Did you spend any time in the gym during
14 your freshman year at Balboa?

15 MS. MAJD: Vague.

16 THE WITNESS: That I can remember, no.

17 MR. ROSENTHAL: Q. So you -- did you never
18 go into the gym during your freshman year? I know you
19 didn't have a class in the gym. I'm just wondering if
20 you ever went into the gym at all during your freshman
21 year.

22 A. Perhaps, at the most, maybe three -- maybe
23 one to three times to play basketball when they allowed
24 you to go. Sometimes when it was raining outside, a
25 rainy day, sometimes go inside or to go in there and

1 watch the basketball team tournaments we would have at
2 the school.

3 Q. How about during your sophomore year, did
4 you spend any time in the gym at all during that school
5 year?

6 A. Sophomore year was somewhat of the same
7 thing, only when there was basketball-related
8 tournaments or competition.

9 Q. And during your junior year, were you in the
10 gym more frequently because of your PE class?

11 A. Yes.

12 Q. Is that also true for this year?

13 A. Yes.

14 Q. Earlier you told me that you -- strike that.

15 Have you read the declaration of any other
16 person in connection with this case?

17 A. No.

18 MS. MAJD: Calls for a legal conclusion. Go
19 ahead.

20 THE WITNESS: No, I have not.

21 MR. ROSENTHAL: Q. Have you ever seen the
22 declaration of a student by the name of Alondra Jones?

23 MS. MAJD: Objection. Asked and answered.

24 THE WITNESS: No.

25 MR. ROSENTHAL: Q. Have you ever seen a

1 Do you recognize this document?

2 A. Yes.

3 Q. Have you seen this document?

4 A. Yes.

5 MS. MAJD: Asked and answered.

6 MR. ROSENTHAL: Q. Prior to today?

7 A. Prior to today?

8 Q. Right.

9 A. Yes.

10 Q. If you can turn to page 7 and I'll ask you

11 just to take a moment to read request No. 1, which
12 carries over to page 8. Just let me know when you've
13 finished reading.

14 A. Okay.

15 Q. Have you finished reading it?

16 A. Yes.

17 Q. You provided me today with three pages of
18 documents. Are there any other documents that you have
19 in your possession that are called for by this request?

20 MS. MAJD: Objection. Calls for a legal
21 conclusion.

22 THE WITNESS: Not to my knowledge, no.

23 MR. ROSENTHAL: Q. Would you say that you
24 were a good student at Balboa High School?

25 MS. MAJD: Objection. Vague.

1 declaration by Ms. Safir?

2 MS. MAJD: Calls for a legal conclusion.

3 THE WITNESS: No.

4 MR. ROSENTHAL: Q. Have you ever seen [REDACTED]
5 [REDACTED] declaration?

6 MS. MAJD: Same objection.

7 THE WITNESS: No.

8 MR. ROSENTHAL: Okay. I'm just going to ask
9 you to mark this document as Exhibit No. 4.

10
11 (Whereupon, Defendant's Exhibit 4 was marked
12 for identification.)

13 MR. ROSENTHAL: Q. Mr. Lewis, I'm going to
14 ask you to take as long as you need to take a look at
15 that document and let me know if you recognize that
16 document.

17 A. Sure.

18 Q. Have you had a chance it review that
19 document?

20 A. Yes.

21 Q. For the record, the document is entitled,
22 "Defendant State of California's Notice of Depositions
23 of Plaintiffs, Plaintiffs' Guardians Ad Litem, and
24 Non-party Declarants; Request for Production of
25 Documents."

1 THE WITNESS: Sorry. Can you repeat?

2 MR. ROSENTHAL: Sure.

3 Q. Would you say you were a good student at
4 Balboa High School?

5 A. Yes.

6 Q. And what do you base that on?

7 A. My never being sent to the dean's office, no
8 fights, no suspensions, no parent conferences, and my
9 grades.

10 Q. Do you believe you got good grades at Balboa
11 High School?

12 A. I believe so.

13 Q. Do you believe you got a good education at
14 Balboa High School?

15 MS. MAJD: Objection. Vague and calls for
16 expert testimony. Calls for speculation.

17 THE WITNESS: For the most part, yes.

18 MR. ROSENTHAL: Q. Are you planning on
19 attending college in the future?

20 A. Yes.

21 Q. Have you applied to any schools as of today?

22 A. Yes.

23 Q. Can you tell me where you've applied?

24 A. Let's see, UC Davis, UC Irvine, San Diego
25 State, UC San Diego, UC Santa Barbara. I believe those

1 are it for the -- those are the schools at this
 2 particular moment.
 3 Q. Do you have plans to apply to any other
 4 schools?
 5 A. Yes.
 6 Q. Can you tell me what other schools you are
 7 planning on applying to?
 8 A. Howard and the University of Miami.
 9 Q. Is that it?
 10 A. Yes.
 11 Q. Have you been accepted to any of the schools
 12 you've applied to as of today?
 13 A. No.
 14 Q. Have you been rejected from any of the
 15 schools you've applied to as of today?
 16 A. No.
 17 Q. Just so I'm clear, have you not heard back
 18 from any of the schools so far?
 19 A. Not yet.
 20 Q. With respect to what you anticipate doing
 21 professionally for the rest of your life, do you have
 22 any plans as to what you plan on doing?
 23 A. This particular moment, no.
 24 Q. Do you know what you want to major in in
 25 college yet?

1 A. Perhaps education.
 2 Q. We spent a lot of time today talking about
 3 some of the concerns you've had about Balboa High
 4 School. Can you tell me what the best thing was about
 5 your school --
 6 MS. MAJD: Objection.
 7 MR. ROSENTHAL: Q. -- in your mind?
 8 A. The best thing about my school, I believe,
 9 is the school spirit for the most part, the students
 10 tend to have and teachers also, the diversity among the
 11 students and some of the teachers, for example, that I
 12 have or have had, all of which are no longer here, the
 13 ones that I've stated to you previously and my current
 14 teachers, Mr. Bond and Mr. Gonzalez, for the way that
 15 they teach their class, their teaching styles, I like
 16 that, the way they teach the class.
 17 MR. ROSENTHAL: Okay. I have nothing
 18 further and I appreciate you spending the day with me
 19 today.
 20 THE WITNESS: No problem.
 21 MS. MAJD: I just need to ask two quick
 22 follow-up questions.
 23 MR. ROSENTHAL: Fine. I reserve my right to
 24 follow up with anything if I need to.
 25 EXAMINATION BY MS. MAJD

1 MS. MAJD: Okay.
 2 Q. Antonio, can you look for one last time at
 3 your declaration?
 4 MR. ROSENTHAL: Can we go off the record for
 5 a minute? I'll just go grab a copy so I can follow
 6 along.
 7 (Recess taken.)
 8 MS. MAJD: Q. Okay. Antonio, if you can
 9 look at paragraph eight of your declaration. As we
 10 discussed earlier in your declaration in paragraph
 11 eight, you state, "In my world literature class in
 12 tenth grade, I saw a mouse run across the room."
 13 Did you believe that to be true when you
 14 signed your declaration?
 15 A. Yes.
 16 Q. Why did you believe that?
 17 A. Because at the time, due to the things that
 18 were going on in that particular classroom in that
 19 literature class I had sophomore year, the reaction of
 20 the teacher, the students pointing, screaming, and I
 21 guess it was just all the rapid movement of the
 22 students moving about in the classroom, so I may have
 23 thought I saw a mouse run across the room when they
 24 were pointing.
 25 Q. Okay. You testified earlier that you could

1 see on [REDACTED] face that he was stressed out and
 2 you said, for example, that he would put his hands over
 3 his head and -- is that correct?
 4 A. Correct.
 5 Q. Did you ever hear anyone ask [REDACTED] if
 6 he was stressed out?
 7 A. Yes, there was one particular instance where
 8 I was in his class at lunchtime doing some work and he
 9 was just sitting there. I can't remember if he was at
 10 his desk or a chair and he kind of had his head down
 11 like he was depressed and his hands over his head and
 12 another student came into the room, like knocked on the
 13 door and opened the door and the student said something
 14 along the lines of, "Stressed out, huh, [REDACTED]"
 15 And he lifted his head up and looked at the
 16 student and replied, "You have no idea."
 17 MS. MAJD: Okay. Thanks. That is all I
 18 have.
 19 MR. ROSENTHAL: I have nothing further.
 20 Let's do our closing stipulation.
 21 MS. MAJD: Okay.
 22 MR. ROSENTHAL: Can we stipulate that copies
 23 of documents attached to this deposition may be used as
 24 originals and that the original of this deposition be
 25 signed under penalty of perjury; that the original be

1 delivered to the office of Ms. Majd; that the reporter
2 is relieved of liability for the original of the
3 deposition; that the witness will have 30 days from the
4 date of the court reporter's transmittal letter to Ms.
5 Majd to sign and correct the deposition and Ms. Majd
6 shall notify all parties in writing of any changes in
7 the deposition and if there are no such changes
8 communicated or signature within that time, any
9 unsigned, uncorrected copy may be used for all purposes
10 as if signed and corrected.

11 MS. MAJD: So stipulated.

12 MR. ROSENTHAL: Then I believe we are all
13 set and can go off the record.

14 MS. MAJD: Thank you.

15 MR. ROSENTHAL: Thank you.

16
17 (Whereupon, the deposition was adjourned
18 at 6:36 p.m.)
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1 CERTIFICATE OF REPORTER

2 I, JOHNNNA FORD, a Certified Shorthand Reporter,
3 hereby certify that the witness in the foregoing
4 deposition was by me duly sworn to tell the truth, the
5 whole truth and nothing but the truth in the
6 within-entitled cause;

7 That said deposition was taken down in
8 shorthand by me, a disinterested person, at the time
9 and place therein stated, and that the testimony of the
10 said witness was thereafter reduced to typewriting, by
11 computer, under my direction and supervision;

12 I further certify that I am not of counsel or
13 attorney for either or any of the parties to the said
14 deposition nor in any way interested in the event of
15 this cause and that I am not related to any of the
16 parties thereto.

17
18 DATED: _____, 2001.
19
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21 _____
22 JOHNNNA FORD, CSR 11268
23
24
25

1 I declare under penalty of perjury that the
2 foregoing is true and correct. Subscribed at
3 _____, California, this ____ day of
4 _____, 2001.
5
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8 _____
9 ANTONIO LEWIS
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